

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 1078 of 2004 (O&M)
Date of decision 12.08. 2015.

Bimla and Ors

..... Appellants.

versus

Prem Singh and others

..... Respondents.

FAO No. 3311 of 2004

Smt. Sama Kaur

..... Appellant.

versus

Prem Singh and others

..... Respondents.

FAO No. 1230 of 2004

Roshani and others

..... Appellants.

versus

Prem Singh and others

..... Respondents.

FAO No. 1648 of 2004

Roshani and others

..... Appellants.

versus

Jagbir Sharma and others

..... Respondents.

FAO No. 1649 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Smt. Nimbo and others

..... Respondents.

FAO No. 1650 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Maya Pati and others

..... Respondents.

FAO No. 1651 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Smt. Roshni and others

..... Respondents.

FAO No. 1652 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Sona Kapoor and others

..... Respondents.

FAO No. 1653 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Krishna Devi and others

..... Respondents.

FAO No. 1654 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Phool Kaur and others

..... Respondents.

FAO No. 1655 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Smt. Bimla and others

..... Respondents.

FAO No. 1656 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Smt. Santosh Devi and others

..... Respondents.

FAO No. 1657 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Brahma Devi and others

..... Respondents.

FAO No. 1658 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Suman and others

..... Respondents.

FAO No. 1659 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Chhaju Ram and others

..... Respondents.

FAO No. 1660 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Suresh Kumar and others

..... Respondents.

Present : Mr. B.D.Sharma, Advocate for
Mr. Akshay Goel, Advocate for the appellants.
Mr. Neetu Singh, Advocate for respondent No. 8.
Mr. A.K.Gahlawat, Advocate for Rajasthan Roadways.

FAO No. 1661 of 2004

The Rajasthan Rajya Path Parivahan Nigam and another

..... Appellants.

versus

Sama Kaur and others

..... Respondents.

CORAM :- HON'BLE MR.JUSTICE K.C.PURI.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present : Mr. R.A. Sheoran, Advocate for the appellants FAO No.1078 of 2004.
Ms. Rimple Sohi Kadyan, Advocate for the appellant(s) in FAO No.3311 of 2004.
Mr. B.D.Sharma, Advocate for
Mr. Akshay Goel, Advocate for the appellants FAO No.1230 of 2004.
Mr. Neetu Singh, Advocate for respondent Nos. 8 and 9.
Mr. A.K.Gahlawat, Advocate for Rajasthan Roadways for appellants in FAO No.1648 to 1661 and for respondent- Rajasthan Roadways in remaining appeals.

K.C.PURI, J.

Vide this judgment, I intend to dispose of FAO No.1648 to 1660 preferred by Rajasthan Rajpath Nigam and FAO No.1078 of 2014 and FAO No.1230 of 2004 and FAO No.3311 of 2004 directed by claimants for enhancement of compensation against the Award dated 29.11.2003 passed by Ms.Neena Chaudhary, Motor Accident Claims Tribunal, Bhiwani.

2. The facts are being taken from FAO No.1078 of 2004. It is alleged that on 18.8.1999 Hanuman Parshad was driving jeep bearing registration No. HR-17-0822 having many other persons sitting in the jeep and was going from Bhiwani towards Jui, i.e. towards Loharu, when the jeep reached near Durga Cotton Oil Mills at a distance at about 1km away from truck union, Bhiwani towards Loharu, a bus of Rajasthan Rajya Path Parivahan Nigam (in short offending bus) being driven by respondent No.1 Prem Singh rashly and negligently and at a high speed came from the side of Loharu and hit the jeep causing serious injuries to the occupants. Thereafter hit Tata 407 bearing registration No.HR16/2016, which was following the said jeep. The said jeep was at a moderate speed and the bus came on the wrong side and hit the jeep bearing registration No.HR17-0822, as a result of which six occupants of the jeep died at the spot due to injuries. Post mortem examination on the dead bodies were done. FIR No.268 was recorded against respondent No.1 under Sections 279, 337 and 304-A of the IPC. Hanuman Parshad was aged 22 years on the date of accident and was earning Rs.7000/- per month i.e. Rs.4000/- as salary as driver and Rs.3000/- by doing the agriculture work. Therefore, claim petition for grant of compensation of Rs.20,00,000/- has been filed.

Similarly, Phool Kaur aged 50 years claimed Rs.1,00,000/- as compensation regarding injuries suffered by her. Jaibir Sharma, injured claimed a compensation of Rs.8,00,000/-. Suresh Kumar claimant claimed Rs.1,50,000/- with regard to damage to his jeep bearing registration No.HR17-0822. Mayapati and others have claimed compensation to the tune of Rs.10,00,000/- with regard to death of her husband Anil Kumar aged 20 years in the accident, who was earning Rs.6000/-pm. Smt. Sama Kaur widow of Ganga Dhar filed claim petition due to death of her husband Ganga Dhar claiming compensation to the tune of Rs.5,00,000/- as he was earning Rs.10,000/- per month. Santosh etc. had filed a claim petition claiming compensation of Rs.50,00,000/- due to the death of her husband Saggar Mal in the accident in question and at that time he was taking salary of Rs.11,000-12,000/-per month. Bimal and others had filed claim petition claiming compensation of Rs.10,00,000/- due to the death of her husband Ravi Kumar aged 30 years. Brahma Devi etc. had filed a claim petition claiming compensation of Rs.15,00,000/- due to the death of her husband Ram Niwas who was aged 22 years at that time. Sama Kaur had filed claim petition claiming compensation of Rs.5,00,000/- due to the injuries suffered by her in the accident in question. Suman had filed a claim petition claiming compensation of Rs.5,00,000/- due to the injuries suffered by her in the accident in question. Smt. Krishana Devi had filed a claim petition claiming compensation of Rs.30,00,000/- due to the death of her husband Mukesh aged about 20 years. Nimbo had filed a claim petition claiming compensation of Rs.3,00,000/- due to the injuries suffered by her

in the accident in question.

3. The respondents opposed all the above mentioned claim petitions by way of separate written statements. Respondent Insurance Company also opposed the claim petitions.

4. Replications to the written statements were filed. From the pleadings of the parties, following issues were framed :-

1. Whether accident took place on 18.08. 1999 was because of rash and negligent driving of respondent No.1 while driving bus No. RJ-10-P/1800. If so its effect?
2. Whether the petitioners are entitled to receive any compensation, if so how much and from whom ?OPP
3. Whether the petition is not maintainable in the present form ?OPR
4. Whether the vehicles involved in the accident were being driven without valid and effective driving licences, if so its effect ?
5. Relief.

6. The parties have led their respective evidence on the aforesaid issues. The Tribunal after appraisal of the evidence, awarded the amount of compensations to the respective claimants.

7. Feeling dissatisfied with the impugned Award, FAO No.1648 to 1661 have been preferred by Rajasthan Rajpath Nigam and FAO No.1078 of 2004 and FAO No.1230 of 2004 and FAO No.3311 of 2004 directed by claimants for enhancement of compensation.

8. I have heard learned counsel for the parties and have gone through the records of the case with their able assistance.

FAO No.1648 to 1661

9. The appellants has challenged the Award on the following two grounds :-

- (1) That deceased/injured were travelling in Jeep No. HR-17-0822. The accident has taken place with the said Jeep and Bus of Rajasthan Roadways bearing registration No. RJ-10-P-1800 being driven by respondent No.1 Prem Singh ?
- (2) Regarding Quantum of compensation.

10. It is submitted that according to the case of the claimants bus bearing registration No. RJ-10-P-1800 (hereinafter mentioned as offending bus) hit jeep and thereafter hit TATA 407 bearing registration No.HR-16-2016(hereinafter referred as TATA-407). It is submitted that it is a case of contributory negligence in which the driver of jeep and driver of TATA 407 have contributed to the accident and as such whole of the liability cannot be fastened against the owner and driver of offending bus.

11. I have carefully considered the said submission but do not find any force in that submission.

12. As per finding by the learned Tribunal and evidence on the record, the accident has taken place due to rash and negligent driving of offending bus. The driver of jeep and driver of TATA 407 are not at fault and as such the arguments advanced by the learned counsel for the appellants-The Rajasthan Rajya Path Parivahan Nigam and another cannot be accepted.

13. The second point taken by the counsel for the appellants is regarding quantum of compensation. However, from the perusal of the file, it is revealed that the amount of compensation cannot be said to be on

higher side. From the evidence on the file, it is revealed that it is on the lower side. In none of the cases, amount regarding future prospectus, loss of consortium, loss of love and affection etc has been taken into account. The income of the deceased has also not been taken on higher side.

14. No other point has been urged before me by the counsel for the appellants-The Rajasthan Rajya Path Parivahan Nigam and another . So, in these circumstances, the appeal Nos.1648 to 1661 of 2004 are without any merit and the same stand dismissed.

Appeal No.1078 of 2000

15. This appeal has been directed by widow and minor daughter and son of deceased Ram Kumar for enhancement of compensation. Deceased Ram Kumar was aged 30 years. The claimants had alleged his income as Rs.10,000/- per month i.e. Rs.4000/- as salary by working as driver and Rs.6000/- per month from agriculture means. The Tribunal has taken the income of deceased as Rs.1800/- per month. 1/3rd amount has been deducted in respect of personal expenses and multiplier of 12 has been applied.

16. So far as the income of the deceased as Rs.1800/- per annum, taken by the Tribunal in the year 1999 is concerned, in my view that does not call for any interference. 50% amount has to be added in respect of future prospectus. So, in this manner, the income of the deceased after adding 50% in respect of future prospectus comes to Rs.2700/- per month. There are three claimants and as such the dependency has to be calculated by deducting 1/3rd in respect of personal expenses. So, by deducting 1/3rd in

respect of personal expenses, the monthly dependency comes to Rs.1800/-. The yearly dependency comes to Rs.21,600/-. Keeping in view the authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr 2009 (3) R.C.R.(Civil) 77**, the multiplier applicable at the age of 30 is 17. So, by applying that multiplier, the amount of compensation comes to Rs.3,67,000/-. A sum of Rs.10,000/- stands allowed in respect of expenses on last rites and transportation. Another sum of Rs.25,000/- stands allowed on account of consortium and a sum of Rs.25,000/- stands allowed on account of loss of love and affection to the minors. So, in this manner, the claimants are held entitled to claim Rs.4,27,000/-. The enhanced amount shall carry interest @ 7.5% p.a. from the date of claim petition till payment. The liability to pay the enhanced amount shall be the same as ordered by the Tribunal. Now minors must have become majors, so out of the enhanced amount, 50% amount shall be paid to the widow and the remaining amount shall be shared by the remaining claimants in equal shares.

17. The appeal stands disposed of accordingly.

Appeal No.1230 of 2000

18. This appeal has been directed by widow and two minor children of deceased Hanuman Parshad for enhancement of compensation. Deceased Hanuman Parshad was aged 22 years at the time of accident. His income was alleged to be Rs.7,000/- per month but the Tribunal has taken his income as Rs.1500/- per month. 1/3rd amount has been deducted in respect of personal expenses and multiplier of 14 was applied. However,

the Tribunal has not taken into account the other factors like funeral expenses, loss of consortium, loss of love and affection etc. So, the amount of compensation requires to be re-calculated.

19. The income of the deceased as driver had been taken as Rs.1500/- per month in the year 1999 as he was 22 years of age at that time. So, 50% amount has to be added in respect of future prospectus. Thus, the income of the deceased is taken as Rs.2250/- per month after adding 50% in respect future prospectus. $\frac{1}{3}$ rd amount has to be deducted in respect of his personal expenses as he had three other family members. The dependency comes to Rs.1500/-per month. The yearly dependency comes to Rs.18,000/-. So keeping in view the authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr 2009 (3) R.C.R.(Civil) 77**, the multiplier applicable at the age of 22 is 18. So, applying that multiplier, the amount of compensation comes to Rs.3,24,000/-. A sum of Rs.10,000/- stands allowed in respect of expenses on last rites and transportation. Another sum of Rs.25,000/- stands allowed on account of consortium and another sum of Rs.25,000/- stands allowed on account of loss of love and affection to the minors. So, in this manner, the claimants are held entitled to claim Rs.3,84,000/-. The enhanced amount shall carry interest @ 7.5% p.a. from the date of claim petition till payment. The liability to pay the enhanced amount shall be the same as ordered by the Tribunal. Now minors have become major, so out of the enhanced amount 50% amount shall be paid to the widow and the remaining amount shall be shared by the remaining claimants in equal shares.

20. The appeal stands disposed of accordingly.

Appeal No.3311 of 2004

21. Widow is the claimant in this case. Ganga Dhar deceased was 58 years of age at the time of accident and as such a sum of Rs.,50,000/- was allowed to the claimant. The claimant has alleged that he was earning Rs.10,000/- per month but his income has been taken as Rs.1500/- per month. Keeping in view authority **Rajesh and others vs Rajbir Singh and others reported in 2013 (3) RCR (Civil) page 170,** 15% amount has to be added in respect of future prospectus. So, by adding 15%, monthly income of Ganga Dhar comes to Rs.1725/-per month. So, by deducting 1/3rd in respect of personal expenses, the monthly dependency comes to Rs.1150/- and yearly dependency comes to Rs.13,800/-. As per authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr 2009 (3) R.C.R.(Civil) 77,** the multiplier applicable at the age of 58 is 9. So, by applying that multiplier, the amount of compensation comes to Rs.1,24,200/-. A sum of Rs.10,000/- stands allowed in respect of expenses on last rites and transportation. Another sum of Rs.25,000/- stands allowed on account of consortium. So, in this manner, the claimants are held entitled to Rs.1,84,200/-. The enhanced amount shall carry interest @ 7.5% p.a. from the date of claim petition till payment. The liability to pay the enhanced amount shall be the same as ordered by the Tribunal. Now minors have become major, so out of the enhanced amount 50% amount shall be paid to the widow and the remaining amount shall be shared by the

remaining claimants in equal shares.

22. The appeal stands disposed of accordingly.

23. A copy of this judgment be sent to the trial Court for strict compliance.

**(K.C.PURI)
JUDGE**

August 12, 2015

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