IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 2879 OF 2003 (O&M)
DECIDED ON : 29.06.2015

Shakuntla and others
...Appellant

versus

Gurdeep Singh @ Kala and others
...Respondents

AND

FAO NO. 3360 OF 2003 (O&M)

Joginder
...Appellant

versus

Gurdeep Singh @ Kala and others

...Respondents

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

Present : Mr. Arvind Bansal, Advocate,
for the appellant (s).

None for the respondents.

K. C. PUR, J. (ORAL)

Vide this common order, I intend to dispose of two petitions bearing ***FAO No. 2879 of 2003*** titled as, ***"Shakuntla***

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vs Gurdeep Singh @ Kala and others" and ***FAO No. 3360 of 2003*** titled as, ***"Joginder vs. Gurdeep Singh @ Kala and others"***, as the same have arisen out of the common Award.

Briefly stated, Shakuntla-mother, Mange Ram-father, Geeta Devi and Suman-sisters of deceased Subhash filed MACT Case No. 21 of 2002, whereas Jogindro widow of late Subhash filed MACT Case No. 49 of 2002, seeking compensation on account of death of Subhash in a motor vehicular accident. Both the claim petitions were decided vide common Award dated 08.04.2003 passed by Shri Vimal Kumar Bakshi, Motor Accident Claims Tribunal, Kaithal and a sum of ₹3,30,000/- was awarded as compensation along with interest @ 9% per annum from the date of filing the application till its realisation. Out of the awarded amount, a sum of ₹1,00,000/- was ordered to be paid to the widow and the remaining amount of ₹2,30,000/- was ordered to be paid to the remaining claimants. Now both the set of claimants have filed above mentioned appeals seeking enhancement of compensation.

The Tribunal has taken the income of deceased as ₹2700/- per month. 1/3rd amount was deducted in respect of personal expenses. The dependency of both the set of claimants was taken as ₹1800/- per month. The multiplier of 15 was applied by the Tribunal. In this manner, a sum of ₹3,24,000/- was calculated as compensation. Another sum of ₹3000/- was allowed in respect of last rites and a sum of ₹3000/- was allowed in

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respect of consortium. In this manner, all the claimants were held entitled to claim ₹3,30,000/- as compensation.

Learned counsel for the appellant(s) has submitted that the Tribunal has committed grave error by not taking whole of the salary of deceased into account for computing compensation. It is further submitted that the salary certificate Exhibit PB has been proved on file as the deceased was working in Railway Coach Factory as a permanent employee. He was getting a gross salary of ₹4218/- per month. The Tribunal has wrongly taken into account the carry home salary after deducting provident fund, GIS etc. The deduction in respect of Provident Fund, GIS, Loan etc. cannot be made for the purpose of calculating the income of deceased. It is further submitted that the age of deceased was 28 years and as such, 50% amount should have been granted in respect of future prospects as the deceased was a government employee. It is further submitted that there are four claimants and the dependency should be to the extent of 1/4th in view of authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77.*** It is further submitted that the multiplier applied by the Tribunal is on lower side as the multiplier applicable at the age of 28, as per ***Sarla Verma's case (supra),*** is 17. It is further submitted that the amount of ₹3000/- in respect of funeral expenses and ₹3000/- in respect of consortium is also on lower side. It is further submitted that no amount in respect of

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loss of love and affection has been allowed.

I have considered the submissions made by learned counsel for the appellant(s). The submissions carries weight and have to be considered.

The proved income of the deceased as per salary certificate was ₹4218/-. The Tribunal has committed grave error by taking the carry home salary of the deceased into account. The amount in respect of PF, GIS is just a saving and cannot be deducted while commuting the income of deceased. So, the income of deceased is taken as ₹4218/- per month. The deceased was working in Railway Coach Factory as a permanent employee. In view of ***Sarla Verma and others' case (supra),*** 50% amount should have been added in respect of future prospects. So, after adding 50% in respect of future prospects, the amount comes to ₹6327/- per month. The Tribunal has taken four persons as dependents. So, in view of ***Sarla Verma and others' case (supra),*** the dependency should have been calculated as 1/4th in respect of personal expenses. So, after deducting 1/4th, the monthly dependency comes to Rs.4745.25. The yearly dependency comes to ₹56,943/- (4745.25 x 12). The multiplier applicable at the age of 28 is 17. So, by applying the said multiplier, the amount comes to ₹9,68,031/- (56,943x17). The claimants are also entitled to claim amount in respect of last rites, loss of love and affection, transportation, keeping in view the price index of that year. In this case, the accident took place

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in the year 2001. So, the claimants are held entitle to claim ₹15,000/- in respect of last rites and transportation of dead body. The widow-Joginder is held entitle to claim ₹25,000/- in respect of consortium. All the claimants are also held entitle to claim ₹25,000/- in respect of loss of love and affection. In this manner, all the claimant are held entitle to claim ₹10,33,031/- say ₹10,33,000/- as compensation. Out of the enhanced amount, a sum of ₹3,53,000/- shall be paid to the widow-Joginder, whereas the remaining amount be shared equally by the remaining claimants. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing the petition till its realisation. The liability to pay the amount shall also remain the same as ordered by the Tribunal.

Both the petitions stand disposed of accordingly.

JUNE 29, 2015 **(K. C. PURI)**
shalini **JUDGE**

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