486 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) FAO No.1783 of 2003 (O&M)
Decided on: 14.7.2015.

Shankuntla Devi and another
... Appellants
Versus
Prem Chand and another ... Respondents

(2) FAO No.1784 of 2003 (O&M)

Reshma Rani and others
... Appellants
Versus
Prem Chand and another ... Respondents

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

Present : Mr. H.S. Saggu, Advocate,
for the appellants.

Mr. Suman Jain, Advocate,
for the insurance company.

K.C.PURI.J.(ORAL)

This judgment shall dispose of aforementioned two appeals bearing FAO No. 1783 of 2003 titled as 'Shankuntla Devi and another vs. Prem Chand and another and FAO No.1784 of 2003 titled as 'Reshma Rani and others vs. Prem Chand and another' because both these appeals have arisen out of the common Award arising out of the same accident.

The case of the claimants is that on 22.6.1988 Sita Ram, Pawan Kumar and Dharam Pal were travelling in car No. PCT

915. They were killed by the terrorists while travelling in the said car. The claimants earlier filed civil suit which was decreed. The appellate Court dismissed the suit with the observation that civil Court has no jurisdiction in view of Section 175 of the Motor Vehicles Act. The appeal preferred before this Court was also dismissed on 23.7.2001 and the claimants were given liberty to approach the Tribunal.

Learned Tribunal after adjudication accepted all the three claim petitions preferred in respect of death of Sita Ram, Pawan Kumar and Dharam Pal. Reshma Devi and other LRs of Pawan Kumar were allowed a sum of Rs.1,44,000/- whereas the legal heirs of Dharampal, namely, Shakuntala Devi was allowed a sum of Rs.1,29,600/-.

The present two appeals have been filed by the claimants for enhancement of compensation.

FAO No.1783 of 2003

This appeal has been preferred by Shankuntla Devi. In this case, income of deceased Dharampal has been taken as Rs.1000/- per month. The dependency has been taken as Rs.600/- per month. The yearly dependency has been taken as Rs.7200/- and multiplier of 18 was applied as deceased was aged 26 years.

The income of the deceased as Rs.1000/- has been taken in the year 1988. In the absence of any cogent evidence, the same cannot be disturbed. The income of the deceased is taken as Rs.1000/-

per month. However, future prospects have not been taken into account. The deceased was 26 years old and as such by adding 50% in view of authority (i) **Rajesh and others vs. Rajbir Singh and others 2013 ACJ 1403,** the income of the deceased can be taken as Rs.1500/- per month. There are two claimants so, 1/3rd amount has to be deducted in respect of personal expenses. So, the dependency of the claimants comes to Rs.1000/- per month (1500--500=1000). The yearly dependency comes to Rs.12,000/. The multiplier applicable at the age of 26 years is 17 so, by applying that multiplier, the amount of compensation comes to Rs.2,04,000/-. Another sum of Rs.10,000/- stands allowed in respect of expenses on last rights and transportation. The claimants are also held entitled to claim Rs.25,000/- in respect of loss of love and affection. In this manner, the claimants are held entitled to claim total compensation of Rs.2,39,000/-.

The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay compensation shall be the same as ordered by the Tribunal. The amount shall be shared by the claimants in equal shares.

FAO No.1784 of 2003

The income of deceased Pawan Kumar has been taken as Rs.23,470/- per annum as per income tax return for the year 1986-87. The said amount has not been challenged by learned counsel for the appellant. The income of the deceased was Rs.23,470/- per annum. A sum of Rs.1367/- was paid as income tax so, that amount has to be deducted. So, the income of the deceased is taken as Rs.22,103/- per annum. By adding 50% amount in respect of future prospects, the income of the deceased has to be taken as Rs.33,154/- per annum (22,103+11,051). There are five dependents. 1/4th amount has to be deducted in respect of personal expenses. So, the annual dependency comes to Rs.24,866/- (33,154-8288). The multiplier applicable at the age of 30 years is 17 so, by applying that multiplier, the amount of compensation comes to Rs.4,22,722/-. A sum of Rs.10,000/- stands allowed in respect of expenses on last rites. Another sum of Rs.25,000/- stands regarding consortium and Rs.25,000/- stands allowed regarding loss of love and affection. In this manner, total compensation of Rs.4,82,722/- stands allowed say Rs.4,82,700/-.

The enhanced amount shall carry interest at the rate of 7.5% per annum from the date of claim application till payment. The liability to pay compensation shall be the same as ordered by the Tribunal. Out of the sum awarded, Rs.2 lacs shall be paid to the widow and the remaining amount shall be paid to the remaining claimants equally.

Both the appeals are disposed of in the manner indicated above.

14.7.2015. **(K.C.PURI)**
SN **JUDGE**