IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.4741 of 2005
Date of Decision: May 26, 2015

Sunita Devi & Ors.

...Appellants

Versus

Manoj Kumar & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Jagdish Manchanda, Advocate, for the appellants.

Mr.Sanjiv Pabbi, Advocate, for respondent No.2-Insurance Company.

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

<u>Naresh Kumar Sanghi, J.</u>(Oral)

The present appeal has been filed by Sunita Devi (widow), Rohit (minor son), Preeti Devi (minor daughter), Tej Pal(father) and Pali Devi (mother) of Gurmeet alias Meeti (since deceased), challenging the award dated 07.05.2005 passed by learned Motor Accidents Claims Tribunal, Fast Track Court, Kurukshetra (for brevity "learned Tribunal).

Learned counsel for the appellants submits that there were as many as five dependents on Gurmeet Singh @ Meeti (since deceased) and as such, 1/3rd deduction for personal expenses from the monthly income of the deceased was not justified, in fact, it should be 1/4th of the monthly income; as per the findings of the learned Tribunal, Gurmeet Singh @ Meeti (since deceased) was 25 years of age at the time of his death, therefore, the multiplier should be 18 in stead of 17; for transportation and last rites, a meagre sum of Rs.10,000/- (Rupees Ten thousand) has been awarded against the settled norms of Rs.25,000/- (Rupees Twenty Five thousand); the widow has not been granted Rs.1,00,000/- (Rupees One lac) for consortium while the two minor children of Gurmeet Singh @ Meeti have also been deprived from the amount under the head of 'love and affection'.

On the other hand, learned counsel for respondent No.2-Insurance Company very fairly concedes that as per the norms settled by Hon'ble the Supreme Court in the matters of **<u>Sarla Verma and Others</u>** vs. **<u>Delhi Transport Corporation and Anr.</u> 2009(3) RCR (Civil) 77,** and **<u>Rajesh and others</u>** vs. **<u>Rajbir and Others</u>, (2013) 9 SCC 54,** the deceased has left behind five dependents, in that eventuality, the deduction for personal expenses of the deceased should be $1/4^{th}$. He further fairly concedes that as per the said judgments of Hon'ble the Supreme Court, the multiplier at the age of 25 years should be 18. He further concedes that as per the said judgments, Rs.25,000/- (Rupees Twenty five thousand) can be paid to the claimants for transportation and last rites of the deceased. However, he submits that the accident had taken place in the year 2003, therefore, the learned Tribunal has rightly opted not to award the compensation under the heads of 'consortium' and 'love and affection'.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Though the issue of death of Gurmeet Singh @ Meeti (since deceased) in the motor vehicular accident on account of rash or negligent driving on the part of Manoj Kumar (driver and the owner of Jeep No.HR-61T-1245) is not in dispute before this Court yet to link the facts, the brief description of the case is as under:-

On 02.12.2003, Gurmeet Singh @ Meeti along with other passengers was travelling in three-wheeler bearing registration No.HYS-3428 which was being driven by Pawan Kumar at a slow speed and on the correct side of the road. When the said three-wheeler reached within the jurisdiction of village Tikri then Jeep bearing registration No.HR-61T-1245 (for brevity "the offending vehicle") being driven by Manoj Kumar (respondent No.1) rashly or negligently, at a very fast speed and without observing the traffic rules emerged there from the opposite side and hit the three-wheeler. As a result of which, the three-wheeler turned turtle and its occupants including Gurmeet Singh @ Meeti suffered serious injuries. Gurmeet Singh @ Meeti died at the spot. The matter was reported to the police on the basis of which the FIR was registered. After completion of the investigation, the chargesheet was presented for prosecution of Manoj Kumar-respondent No.1. The claimant/appellants filed the claim petition bearing No.223 of 2005 alleging that Gurmeet Singh @ Meeti (since deceased) was aged about 25 years. He was the only bread-winner for them (appellants). Gurmeet Singh @ Meeti was a band master and his monthly income of Rs.10,000/- (Rupees Ten thousand). They claimed Rs.10,00,000/- (Rupees Ten lacs) as compensation.

The respondents appeared before learned Tribunal and filed their respective replies.

On the pleadings of the parties, the following issues were framed:-

1. Whether the motor vehicle accident that took place on 02.12.2003 is an outcome of rash and negligent driving of Jeep No.HR-61T-1245 by Manoj Kumar respondent No.1?OPP.

2. Whether Sunita Devi and others, petitioners in the main case are entitled to compensation for the death of Gurmeet Singh alias Meeti in the aforesaid accident? If so, in what amount? OPP.

3. Whether Rajesh alias Raju, petitioners in the connected case is entitled to compensation for the injuries he suffered in the aforesaid accident? If so, in what amount? OPP.

4. Whether Saravjit, petitioners in connected case is entitled to compensation for the injuries he suffered in the aforesaid accident? If so, in what amount? OPP.

5. Whether respondent No.2 is entitled to repudiate the

contract of insurance on the grounds alleged? OPR.

6. Relief."

While deciding issue No.1, learned Tribunal held that the accident in question had occurred due to rash or negligent driving of the offending vehicle by Manoj Kumar (respondent No.1), resulting into death of Gurmeet Singh @ Meeti and injuries of Rajesh and Saravjit Singh occupants of the three-wheeler.

While deciding issue No.2, learned Tribunal held that Gurmeet Singh @ Meeti was aged about 25 years; there was no cogent evidence so far as the income of Gurmeet Singh @ Meeti is concerned and as such, his notional income was assessed to be Rs.3,000/- (Rupees Three thousand) per month. 1/3rd monthly income was deducted for personal expenses of the deceased and the total dependency was assumed to be Rs.2,000/- (Rupees Two thousand) per month. A multiplier of 17 was applied and Rs.4,08,000/- (Rupees Four lacs and eight thousand) was awarded for dependency. Rs.10,000/- (Rupees ten thousand) were also granted for transportation, last rites and consortium etc and hence, a total sum of Rs.4,18,000/- (Rupees Four lacs and eighteen thousand) along with interest at the rate of 9% per annum from the date of filing of the petition till realization were granted in favour of the appellants/claimants.

There appears to be force in the contention of learned counsel for the appellants when he submitted that in view of the large number of dependents i.e five, the deduction for personal expenses should be 1/4th . Since the notional income of Gurmeet Singh @ Meeti has been considered to be Rs.3,000/- (Rupees Three thousand) per month and there is no question for deviating from such a finding and hence, this Court also finds that notional income of Gurmeet Singh @ Meeti should be Rs.3,000/- (Rupees Three thousand). If 1/4th monthly income is deducted for personal expenses then the figure would arrive at Rs,2,250/- (Rupees Two thousand two hundred and fifty). If it is multiplied by 12 then the annual income would be Rs.27,000/- (Rupees Twenty seven thousand). It has to be further multiplied by 18 then the total dependency would arrive as Rs.4,86,000/- (Rupees Four lacs and eighty six thousand). The claimants have rightly claimed and are granted Rs.25,000/- (Rupees Twenty five thousand) for transportation and last rites of Gurmeet Singh @ Meeti (since deceased).

This Court does not agree with the submission of learned counsel for the Insurance Company that the claimants are not entitled to the compensation under the heads of 'consortium' and 'love and affection'. As per **Sarla Verma's** case (supra) and **Rajesh's** case (supra) Hon'ble the Supreme Court had granted Rs.1,00,000/- (Rupees One lac) to the widow for 'consortium' and the minor children of the deceased were granted Rs.1,00,000/- (Rupees one lac) each for 'love and affection'. This Court finds no reason not to grant adequate amount to the widow and minor children of the deceased in the present case. Resultantly, Sunita Devi Widow of Gurmeet Singh @ Meeti is entitled to Rs.1,00,000/- (Rupees one lac) for consortium while the minor children, Rohit and Preeti Devi are also entitled to Rs.1,00,000/- (Rupees One lac) each (total Rupees two lacs) for 'love and affection'. The total figure would arrive at Rs.8,11,000/- (Rupees Eight lacs and eleven thousand).

Resultantly, the appellants would be entitled to the following amount as per the table given below:-

Sr.No. (A)	Heads (B)	Details of Calculations (C)	Amount in Rupees (D)
1.	Assessed monthly income of the deceased		3,000.00
2.	Less personal expenses of the deceased	1/4th of 1(D)	750.00
3.	Monthly dependency of the claimants	1(D)-2(D)	2,250.00
4.	Annual dependency of the claimants	3(D) x 12	27,000.00
5.	Compensation after applying multiplier	4 (D) x 18	4,86,000.00
6.	Loss of consortium, payable to widow of the deceased		1,00,000.00
7.	Love and affection payable to each minor children	1,00,000 x 2	2,00,000.00
8.	Transportation and last rites		25,000.00
	Grand total	Sum of 5(D) to 8(D)	8,11,000.00

The claimants would be entitled to interest at the rate of 9% on the enhanced amount as well. The amount already paid to the claimants shall be deducted from the enhanced amount. The enhanced amount shall be disbursed to the claimants as per the directions of the learned Tribunal.

No other issue was raised by either of the parties.

The appeal is partly allowed.

May 26, 2015 **(Naresh Kumar Sanghi)**
seema **Judge**