

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.1306 of 2007 (O&M)

Date of decision: 06.04.2015

Kulbir Singh and others

....Appellants

Versus

Balwinder Singh and others

....Respondents

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

Present: Mr. Rahul Rampal, Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for respondent No.2.

Mr. Suvir Dewan, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed by the husband and children of the deceased-Gurnam Kaur, who died in a motor vehicular accident on 15.10.2000, which has taken place on 12.10.2000. The present appeal is for enhancement of compensation.

The only point urged during the course of the argument is that the deceased was working as a Teacher in a government aided school on permanent basis and her salary proved on the record was Rs.8925/- per month, but the learned Tribunal has taken the income of the deceased as Rs.4500/- per

month. It has been further argued that the deceased was 42 years of age and as per “**Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**” reported in **2009(3) R.C.R. (Civil) 77**. The multiplier applicable at this age is 14. No amount in respect of loss of estate, loss of consortium and funeral expenses has been granted.

On the other hand, learned counsel for the respondents has supported the judgment of the Tribunal. It is submitted that the deceased was not earning Rs.8925/- and the income has been correctly assessed by the Tribunal.

This is a burnt case. The evidence is not available on the file and as such, the case has to be decided according to the assertions made in the judgment itself. In this case, as per Para 17 of the judgment, the claimant examined PW-2-Renu Arora, who has deposed that the deceased-Gurnam Kaur was posted as Teacher in their school. She has further stated that this is a government aided school. The deceased-Gurnam Kaur, was appointed on 04.09.2000 and she has joined on 07.09.2000. She was appointed in the grade of 5480-8985 and her salary was Rs.8925/- per month. She has produced the copy of resolution and her appointment and appointment letter along with attendance register. As per the statement of this witness, she attended upto 12.10.2000 i.e. the date of the accident. This witness has further stated that Gurnam Kaur was employed in their school for the last

four years. She was permanently posted upon the government aided post on 07.09.2000. However, the learned Tribunal observed that although, the claimants have been able to prove that Gurnam Kaur was employed as a Teacher in the said school but, she has not got the appointment and was getting the salary of Rs.8925/- as a regular Teacher in government aided school. No reasoning has been given by the Tribunal for arriving at that conclusion. The statement of PW-2-Renu Arora, goes un-rebutted. The Tribunal itself has observed that she was working as a Teacher. The other observations made by the Tribunal is that salary was paid late. It was an unfortunate incident and Gurnam Kaur died about one month after her regular appointment in a government aided school. The Tribunal has committed a grave error in discarding the testimony of PW-2-Renu Arora. So, the salary of the deceased should have been taken as Rs.8,925/- per month which is proved on the record and as such, the income of the deceased is taken as Rs.8925/-. The other contention raised by learned counsel for the appellant to the effect that multiplier applicable at the age of 42 years is 14, which is not disputed by learned counsel for the respondents. So, in these circumstances, the dependency has to be calculated by deducting 1/3rd in respect of personal expenses. The dependency of the claimants comes to Rs.5,950/- per month, so, the yearly dependency comes to Rs.71,400/- (5900 x 12). The multiplier applicable at this age as per Sarla Verma's case (supra)

is 14. So, by applying the multiplier of 14, the amount of compensation comes to Rs.9,99,600/-(71,400 x 14). The accident has taken place in the year 2000. So, another sum of Rs.10,000/- stands allowed in respect of funeral expenses, transportation, etc. The claimant-Kulbir Singh is also held entitled to claim Rs.25,000/- in respect of loss of consortium. Another sum of Rs.25,000/- stands allowed in respect of loss of love and affection. So, in this manner, the claimants are held entitled to claim Rs.10,59,600/- say Rs.10,60,000/-. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the amount shall be same as ordered by the learned Tribunal.

Appeal stands disposed of, accordingly.

A copy of this order be sent to the Tribunal for compliance.

06.04.2015

yakub

(K.C. PURI)
JUDGE