

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

**FAO NO. 959 OF 2010 (O&M)
DECIDED ON : 06.04.2015**

Veer Pal and others

...Appellants

versus

Nasir and others

...Respondents

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

Present : Mr. Surender Saini Advocate,
for the appellants.

Mr. S. R. Hooda, Advocate,
for respondent No.1.

Mr. Mohit, Advocate for
Mr. R. A. Sheoran, Advocate,
for respondent No.2.

Mr. Sumit Sangwan, Advocate,
for respondent No.4.

Ms. Vandana Malhotra, Advocate,
for respondent No.6.

K. C. PURI, J. (ORAL)

This is an appeal directed by husband-Veer Pal,
Rakesh, Mukesh and Ashok sons of deceased Maya Devi, who
died in a motor vehicular accident.

The learned Tribunal has taken the age of deceased as 60 years. The income of deceased is taken as ₹2100/- per month and dependency has been taken as ₹1400/- per month after deducting 1/3rd in respect of personal expenses. So, by applying the multiplier of 8, a sum of ₹1,34,400/- (1400x12x8) was allowed as compensation. Another sum of ₹10,000/- was allowed in respect of transportation of the dead body, funeral and last rites expenses. Accordingly, a sum of ₹1,44,400/- was granted as compensation to the claimants. Now the claimants have preferred the instant appeal for enhancement of compensation.

The income of the deceased claimed by the claimants is ₹30,000/- per month from running a dairy farm and stitching and embroidery work.

Learned counsel for the appellant has submitted that income of the deceased has been taken on lower side. It is further contended that the income to the extent of minimum wages should have been taken into account as the age of deceased was 52 years as per the statement of PW-2. Even in the Post Mortem Report, the age of deceased is mentioned as 55 years. It is further contended that there should be no cut in respect of personal expenses. The amount of ₹10,000/- in respect of last rites and funeral expenses is also on lower side and the interest is also on lower side.

On the other hand, learned counsel for the respondents have supported the Award passed by the Tribunal.

However, the accident has been admitted by the respondents. The deceased was aged about 55 years as per the Post Mortem Report and even the claimants have given the age of deceased as 60 years in the claim petition. The claimants cannot regale out from their own admission. It is further submitted that the children are major and as such, they are not entitled for compensation. It is further contended that if the minimum wages is taken into account, in that case, the deduction should be applied.

I have heard learned counsel for the parties and have gone through the records carefully.

The Tribunal has taken the age of deceased as 60 years. It is not disputed during the course of arguments that in the claim petition itself, the age of deceased has been mentioned as 60 years. So, the claimants cannot back out from their own admission regarding age in the claim petition. So, the age of deceased has been correctly taken as 60 years. The income of deceased has been taken as ₹2100/- per month and 1/3rd has been deducted in respect of personal expenses. However, that income in the year 2008 is on lower side. The income of the deceased should have been taken as ₹3000/- per month. So, the income of the deceased is taken as ₹3000/- per month. The claimants are four in number and as such, the dependency should have been calculated by deducting 1/4th in respect of personal expenses. So, the dependency comes to ₹2250/- per month. The yearly dependency comes to ₹27000/-

(2250 x 12). The age of deceased has been taken as 60 years. So, by applying the multiplier of 9 in view of authority "**Sarla Verma and others vs. Delhi Transport Corporation and anr.**" **2009 (3) RCR (Civil) 77**, the amount comes to ₹2,43,000/- (27000 x 9). The Tribunal has allowed another sum of ₹10,000/- in respect of transportation of dead body, funeral and last rites expenses. However, the Tribunal has not allowed any amount in respect of love and affection. So, keeping in view the price index of the year 2005, further sum of ₹25,000/- stands allowed in respect of love and affection. Veer Pal-appellant No.1 being husband of the deceased is also held entitled to claim ₹22,000/- in respect of consortium. In this manner, the claimants are held entitled to claim ₹3 lacs in all. However, the liability to pay the amount shall remain the same as ordered by the Tribunal. The enhanced amount shall carry the interest @ 7.5% per annum from the date of filing the petition.

Disposed of.

APRIL 06, 2015
shalini

(K. C. PURI)
JUDGE