IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6134 of 2011
Date of Decision: 21.01.2015

Smt. Sunita and others

...... Appellants

VERSUS

Sunil Kumar and others

......Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON

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Present: Mr. N.K. Malhotra, Advocate,
for the appellants.

Mr. Suman Jain, Advocate,
for respondents No.3 and 5.

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S.S. SARON, J.

The claimants-appellants aggrieved against the inadequate compensation awarded by the learned Motor Accident Claims Tribunal, Rohtak ('Tribunal' for short) vide its award dated 29.07.2000 have filed the present appeal claiming higher compensation.

Heard learned counsel for the parties.

Bhup Singh along with others on 26.09.1995 were traveling in a four wheeler with registration No.HR-46-4659 from Octroi Post, Rohtak to Sampla. The buses were not plying at that time due to heavy floods and unprecedented rains. Ranbir Singh (respondent No.4), who was owner and driver of the four wheeler was driving. When the four wheeler reached near Chulana Mor in the area of Rohtak, the offending bus with registration No.HR-46-2802 owned by Naya Bans Transport Co-operative Society (respondent No.2) being driven by Sunil Kumar came in a rash and negligent manner from behind and hit the four wheeler, which over turned. All the occupants in the four wheeler sustained multiple injuries. Bhup Singh died at the spot. The other injured were taken to P.G.I.M.S., Rohtak, where they were medically examined and treated. Smt. Sunita is the widow of Bhup Singh alias Pappu (deceased). Sonu and Sonia are the minor son and daughter of the deceased and Smt. Sukh Devi is the mother of the deceased Bhup Singh.

The learned Tribunal assessed the income of Bhup Singh (deceased) at ₹1500/- per month to be that of a casual labourer. Bhup Singh was 27 years of age and a multiplier of sixteen was applied, besides, a deduction of ₹500/- was made towards personal expenses. The yearly income was worked out to ₹1000 x 12 i.e. ₹12,000/- and multiplied by 16 i.e. ₹1,92,000/- was awarded. Aggrieved against the inadequate compensation that has been awarded, the present appeal has been filed. The appeal was admitted on 08.05.2013 only qua respondent No.3-Insurance Company.

After hearing learned counsel for the parties and giving thoughtful consideration to the matter, it is to be noticed that Bhup Singh (deceased) was 27 years of age. No evidence was led by him to show his income. The learned Tribunal, therefore, assessed his income to be ₹1500/- per month being that of a casual labourer. There were four dependents on Bhup Singh (deceased). In "Sarla Verma Versus Delhi Transport Corporation and another", 2009(3)RCR (Civil) 77(S.C.), it was held that where the number of dependents are 4 to 6, then a deduction of one-fourth is to be made, besides, for the age group of 26 to 30 years, a multiplier of seventeen should be applied. The annual income of Bhup Singh at ₹1500/- per month works out to ₹18,000/- and by deducting one fourth as dependency, it works out to ₹13,500/-. To this, a multiplier of seventeen is to be applied, which works out to ₹2,29,500/-. In "Vimal Kumar and others v. Kishore Dan and others", 2013 (2) RCR (Civil) 945 (S.C.), it was held that conventional sum of

₹1,00,000/- is to be awarded towards loss of consortium and loss of estate, besides, ₹2,00,000/- for loss of love and affection for the daughter and ₹1,00,000/- each for the loss of love and affection for the widow and the mother and funeral expenses of ₹25,000/-. Applying the said principle, a sum of ₹1,00,000/- is to be awarded to Smt. Sunita (appellant No.1) towards loss of consortium being widow of the deceased Bhup Singh. Besides, for the loss of love and affection for the daughter is to be ₹2,00,000/-, which is to be awarded to Sonia (appellant No.3) and ₹1,00,000/- to the mother namely Smt. Sukh Devi (appellant No.4). Therefore, to the sum of ₹2,29,000/-, a sum of ₹4,25,000/- more is to be added, which works out to ₹6,54,500/-. From this, an amount of ₹1,92,000/- awarded by the learned Tribunal is to be deducted in case the same has been paid and in case, the amount is not paid, it would be payable. In other words, a total sum of ₹6,54,500/- would be payable to the appellants/claimants.

The claimants/appellants shall be entitled to interest at the rate of ₹9.00 percent per annum from the date of claim petition till payment. However, the appeal filed by the appellants was barred by 3956 days. This Court while condoning the delay in filing the appeal on 08.05.2013 ordered that in the event of enhancement of compensation amount by this Court, the appellant shall not be entitled to claim interest thereupon from the date of award i.e. 29.07.2000 till filing of the appeal i.e. 29.08.2011. Therefore, no interest is to be paid to the claimants/appellants for the said period.

The appeal is disposed of accordingly.

(S.S. SARON)
JUDGE

21.01.2015
G. Bhardwaj