

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.5039 of 2012 (O&M)

Date of decision: 19.03.2015

Sudesh Saini and others

..... Appellants

versus

Sanjay Kumar & others

..... Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sandeep Verma, Advocate for the appellants
Mr.Rakesh Dhiman, Advocate for respondent No.1 and 2
Mr.Kulwinder Singh, Advocate for
Mr.Sanjeev Goyal, Advocate for respondent No.3

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

Kuldip Singh, J. (Oral)

This is claimants' appeal for enhancement of compensation. The Motor Accident Claims Tribunal, Gurgaon (in short, 'the Tribunal'), vide award dated 25.5.2012, awarded Rs.8,60,000/- alongwith interest @ 7.5% per annum from the date of filing of the claim petition till realization in favour of the appellants-claimants.

In nutshell, Bhoop Singh Saini died in a motor vehicular accident on 2.12.2010. It also comes out from the record that his date of birth was 24.12.1969 and his age was 41 years. The deceased was working as an Assistant in a private company at Gurgaon. The Tribunal assessed the income of the deceased as

Rs.7500/- per month. The multiplier of 14 was applied and the compensation was assessed at Rs.8,40,000/-. Rs.5000/- for loss of estate, Rs.10,000/- to the widow for loss of consortium and Rs.5000/- for the last rites and ceremonies were also allowed. Respondents were held jointly and severally liable to pay the compensation.

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

Learned counsel for the appellants has sought enhancement on the following grounds:-

- i) The future prospects @ 30% as per authority in Rajesh and others v Rajbir Singh and others, 2012 ACJ 1403 (SC) were to be added;
- ii) No compensation for loss of love and affection to the minors has been awarded. For the loss of consortium only Rs.10000/- has been awarded, whereas this should be Rs.one lac;
- iii) Inadequate compensation for funeral and last rites has been awarded;
- iv) Since number of family members were four, the deduction of $\frac{1}{4}$ should have been made in place of $\frac{1}{3}$.

The law on the heads claimed by the appellants is now well settled. In this way, the compensation has to be re-calculated. Since income of the deceased was assessed as Rs.7500/- per month, which is not disputed, in the same, 30%, on account of future prospects as per authority Rajesh and others (supra) are to be added. The total income comes to Rs.9750/-, from which $\frac{1}{4}$ personal expenses are to be deducted, keeping in view number of family members i.e. Rs.2437/-. The dependency comes to Rs.7313/-.

The amount of compensation comes to Rs.12,28,584/-. Rs.one lac to the widow for loss of consortium are allowed. Rs.one lac for loss of love and affection to the children are allowed. Rs.25000/- for last rites and funereal ceremonies are allowed. The amount of compensation comes to Rs.14,53,584/-. Interest @ 7.5% per annum from the date of filing of claim petition till realization is also allowed on the enhanced amount. Out of amount of compensation, 50% shall go to appellant No.1 widow of the deceased who is to run the day to day affairs of the family. Remaining 50% shall be equally shared by appellant Nos.2 to 4. Share of minors shall be deposited in long term fixed deposits in a National Bank of the choice of the appellant No.1 – mother of the minors, wherein date of birth of the minors shall also be mentioned and the amount shall be released to them without further orders from any Court on their becoming major. In the meanwhile, the mother of the minors shall be entitled to withdraw the interest accruing on the FDRs for the upbringing of the minors.

With aforesaid directions, the appeal stands allowed.

19.03.2015
gk

(Kuldip Singh)
Judge