

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO NO. 4210 OF 2013(O&M)
DECIDED ON : 14.07.2015

Laxminarain and another

...Appellants

versus

Ashok Kumar and others

...Respondents

AND

FAO NO. 4211 OF 2013 (O&M)

Ashok Kumar

...Appellant

versus

Ashok Kumar and others

...Respondents

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

Present : Mr. S. K. Yadav, Advocate,
for the appellant(s).

Mr. Naveen Chopra, Advocate,
for respondent No.3.

K. C. PURI, J. (ORAL)

Vide this common order, I intend to dispose of two
appeals bearing **FAO No. 4210 of 2013** titled as,
"Laxminarain and another vs. Ashok Kumar and others"
and **FAO No. 4211 of 2013** titled as, **"Ashok Kumar vs.
Ashok Kumar and others"** as the same have arisen out of the
same accident and Award.

FAO No. 4210 of 2013 has been preferred by the parents of deceased Monu who died in a motor vehicular accident which took place on 10.03.2011. FAO No. 4211 of 2013 has been preferred by the claimant-injured on account of injuries sustained by him in the same accident.

The learned Tribunal partly accepted both the claim petitions and allowed as sum of ₹3,98,000/- to the parents of deceased Monu. The deceased Monu was bachelor. His income has been taken as ₹4200/- per month. The deduction made in respect of personal expenses was 50%. So, the monthly dependency comes to ₹2100/-. The yearly dependency comes to ₹25,200/- (2100 x 12). The multiplier of 15 has been applied by the Tribunal. In this manner, the amount of compensation calculated was ₹3,78,000/- (25,200 x 15). ₹10,000/- was allowed in respect of loss of love and affection. Another sum of ₹10,000/- was allowed in respect of funeral expenses. In this manner, a total sum of ₹3,98,000/- along with interest @ 7.5% per annum was allowed as compensation to the parents of deceased Monu.

Regarding injuries sustained by Ashok Kumar, a sum of ₹1,61,300/- has been allowed as compensation. ₹1,11,300/- was allowed in respect of actual expenses on medicine. Another sum of ₹10,000/- was allowed in respect of loss of income as he remained admitted in hospital for 43 days. Another sum of ₹25,000/- was allowed in respect of pain and suffering. Another sum of ₹15,000/- was allowed for special diet etc. In this manner,

a total sum of ₹1,61,300/- was allowed as compensation to injured Ashok Kumar.

The present appellants have preferred the above mentioned appeals for enhancement of compensation.

FAO NO. 4210 OF 2013

Parents of deceased Monu have preferred this appeal for enhancement of compensation. The contention raised by learned counsel for the appellants that income of the deceased has been taken on lower side, is not acceptable. So, the income of deceased has been rightly taken as ₹4200/- per month. The age of deceased was 21 years and in view of authority "**Rajesh and others v. Rajbir Singh and others**" 2012 (2) Apex Court Judgments 245 (SC) and **Civil Appeal No. 4497 of 2015 decided on 15.05.2015 titled as "Munna Lal Jain and another vs Vipin Kumar Sharma and others"**, 50% amount has to be added in respect of future prospects. So, after adding 50% the income comes to ₹6300/- per month. The deceased was bachelor and in view of authority "**Sarla Verma and others vs. Delhi Transport Corporation and anr.**" 2009 (3) RCR (Civil) 77, 50% amount has to be deducted in respect of personal expenses. So, by deducting 50%, the dependency comes to ₹3150/- per month. The yearly dependency comes to ₹37,800/- (3150 x 12). In view of authority **Sarla Verma and others' case (supra)**, the multiplier applicable at the age of deceased is 18. So by applying the said multiplier, the amount comes to

₹6,80,400/- . Another sum of ₹20,000/- stands allowed in respect of last rites and transportation of dead body. The claimants are also held entitle to claim ₹75,000/- in respect of loss of love and affection in view of authority ***Rajesh and others' case (supra)***

In this manner, the claimants are held entitle to claim ₹7,75,400/- as compensation. The enhanced amount shall carry the same rate of interest as ordered by the Tribunal. The liability to pay the amount shall remain the same as ordered by the Tribunal.

FAO NO. 4211 OF 2013

The amount of ₹1,11,300/- allowed by the Tribunal in respect of medical expenses has been correctly awarded. The amount of ₹10,000/- in respect of loss of income has also been correctly awarded. However, keeping in view the fact that injured Ashok Kumar remained admitted in hospital for 43 days, the amount granted in respect of pain and suffering is on lower side. In view of the evidence available on file, Ashok Kumar remained in PGIMS, Rohtak, from 11.03.2011 to 23.04.2011 as indoor patient. According to claimant Ashok Kumar, he received greivous injuries on the head, leg and other parts of the body. He also suffered permanent disability. Dr. Dinesh Sharma while appearing in the witness box as PW-7 has deposed that Ashok Kumar came in the hospital as OPD patient and he examined him and found that he was having malunited fracture both bones right leg with head injury with right side monoparesis with bed sores. PW-8 Anil

Kumar, proved the admission of injured in the hospital. In these circumstances, the amount of ₹25,000/- allowed in respect of pain and suffering is on lower side. The ends of justice would be met in case ₹50,000/- more is allowed to the injured in respect of pain and suffering. So, a sum of ₹50,000/- stands allowed in respect of pain and suffering to the claimant Ashok Kumar. The enhanced amount shall carry the same rate of interest as ordered by the Tribunal. The liability to pay the amount shall remain the same as ordered by the Tribunal.

Both the appeals stand disposed of accordingly.

JULY 14, 2015
shalini

(K. C. PURI)
JUDGE