

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.3917 of 2014 (O&M)

Date of decision: 12.05.2015

Harbans Kaur and others

..... Appellants

versus

Dhanna Singh and others

..... Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Navkesh Singh Goraya, Advocate for the appellants
Mr. Rajesh Kumar, Advocate for
Mr. Neeraj Sobti, Advocate for the respondent Nos. 1 & 2
Mr. Banni Thomas, Advocate for the 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)

Claimants have filed this appeal against the award dated 18.7.2012, passed by the Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal).

Brief facts of the case are that on 21.7.2008, the deceased Som Nath was going on his bicycle for labour work. At about 8.30 a.m., when he reached Lalru Mandi, near Saini Mandi on Ambala Chandigarh road a tractor being driven rashly and negligently by its driver Dhanna Singh hit the bicycle. As a result of which, Som Nath received serious injuries and succumbed to the injuries in Government Medical College and Hospital, Sector 32, Chandigarh.

Deceased was aged about 38 years at the time of his death. The Tribunal assessed the income of the deceased as that of ordinary labourer at Rs.4000/- per month. Since the number of dependents was more than six, 1/5th was deducted as personal expenses and the monthly dependency was calculated at Rs.3200/-. The multiplier of 15 was applied and the compensation was calculated at Rs.5,76,000/-. The Tribunal also awarded Rs.5,000/- towards loss of consortium. Rs.5000/- were awarded for loss of love and affection. Total compensation of Rs.5,86,000/- was awarded.

Not satisfied with the quantum of compensation, the claimants have come up in this appeal.

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

Learned counsel for the appellants has not disputed the income of the deceased at Rs.4000/- per month which is more than the minimum wages in the year 2008.

Learned counsel for the insurance company has argued that minimum monthly wages as on 1.3.2008 was Rs.2620/-, which was increased to Rs.3200/- per month wef 1.9.2008 . Therefore, prayer has been made for reducing the income of the deceased as calculated by the Tribunal. I am of the view that no cross appeal has been filed by the insurance company. Secondly since the deceased was supporting a large family consisting of 8 persons, therefore, he must be working hard to earn some extra income to support such a large family. Therefore, income of the deceased at Rs.4000/- per month was rightly determined by the Tribunal. The

deduction of 1/5th as personal expenses in terms of authority of Sarla Verma and others v. Delhi Transport Corporation and others, 2009 ACJ 1298 (SC) is proper. Multiplier as per age of the deceased has been applied. Therefore, compensation was correctly calculated.

However, I am of the view that compensation granted for loss of consortium and loss of love and affection is on the lower side. Keeping in view Sarla Verma's case (supra) and the subsequent authoritative pronouncements of the Supreme Court, Rs.25000/- on account of funeral expenses are allowed. Rs.one lac for loss of consortium and another sum of Rs.one lac for loss of love and affection to the children is allowed. The total compensation is enhanced by Rs.2,15,000/-. The enhanced compensation shall be paid with interest @ 7.5% per annum from the date of filing the claim petition till its realization.

The appeal stands disposed of.

12.05.2015
gk

(Kuldip Singh)
Judge