

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

1. F.A.O No. 4679 of 2013

New India Assurance Co. ...Appellant

Versus

Krishna and others ...Respondents

2. F.A.O No. 1527 of 2014

Krishna and another ...Appellants

Versus

Satpal and others ...Respondents

Date of decision:- 12.08.2015

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.C. Kapoor, Advocate
for the appellants in FAO No. 4679 of 2013
and for respondent No. 4 in FAO No. 1527 of 2014.

Mr. Sandeep Kumar Yadav, Advocate
for respondent Nos. 1 and 2 in FAO No. 4679 of 2013
and for the appellants in FAO No. 1527 of 2014.

Mr. B.K. Bagri, Advocate
for respondent No. 3 in FAO No. 4679 of 2013
and for respondent No. 1 in FAO No. 1527 of 2014.

Mr. Ashok Muthreja, DAG, Haryana
for respondent Nos. 2 and 3 in FAO No. 1527 of 2014.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J.

1. Two appeals, as noticed above, are being disposed of by

GAURAV ARORA
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I attest to the accuracy and
integrity of this document

this common judgment, having arisen out of the impugned Award dated 18.04.2013 passed by the learned Motor Accident Claims Tribunal, Narnaul.

2. The facts which are not in dispute are that on 12.09.2011, Ravinder, an unmarried youngman aged 19 years, met with an accident and died on 16.09.2011, when he fell while traveling on the rear seat of Bus No. HR-06-1021 driven by Satpal.

3. The learned counsel for the appellant-Insurance Company contends that for a person aged about 18 years, the learned Tribunal was taking a notional income of Rs.4888/- and also provided for a prospect of increase. A prospect of increase is possible only in respect of actual income earned and not for a notional income when the deceased was still non-earning person.

4. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced.

5. Learned counsel for respondent No. 3-driver, has contended that the insurance company cannot be absolved of its liability as the driver was having a valid license and the vehicle was insured with the Insurance Company.

6. I have heard learned counsel for the parties and perused

the record.

7. As far as the appeal preferred by the insurance company is concerned, it is not in dispute that the offending vehicle was fully insured from the appellant-company. Ex.R2 is the photocopy of the driving licence possessed by the driver at the time of the accident. Its genuineness is also not under challenge. The only question which requires determination is as to whether the learned Tribunal has fell in error by taking a notional income of the deceased as Rs.4888/- and also provided for a prospect of increase.

8. Learned counsel for the appellant-Insurance Company has not been able to show that the compensation awarded by the learned Tribunal is not according to the judgment of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77 and Santosh Devi vs. National Insurance Co. Ltd and others 2012 (2) RCR (Civil) RCR 883.*** Thus, the appeal filed by the Insurance Company deserves to be dismissed

9. As far, preferred by the claimants for enhancement of the amount of compensation, is concerned, it has come on record that the deceased was earning Rs.6000/- per month by doing work of grocery and the learned Tribunal by treating him as an unskilled labour took the salary of the deceased as Rs.4888/- and after increasing 30%

increase, in view of ***Santosh Devi's case (supra)***, his monthly income was assessed at Rs.6354/- and after deducting 50% from the same in lieu of the personal expenses, his monthly dependency comes to Rs.3177/- and the annual dependency comes to Rs.38124/- and thereafter by applying the multiplier of 18, the compensation of Rs.6,86,232/- and Rs.10,000/- on the ground of loss of love and affection and Rs.10,000/- on the ground of expenses of last rites. The total compensation comes to Rs,7,45,212/-.

10. Reference at this stage can be made to a judgment of ***Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54*** whereby 50% future prospect has been given and thus is liable to be added in the present case as well. However, the multiplier of 18 has been rightly applied, in view of ***Sarla Verma's case (supra)***. Further reference can be made to judgments of Hon'ble the Supreme Court in cases of '***Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193***'.

11. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4888/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.4888+Rs.2444=Rs.7,332 per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.7332-Rs.1833=Rs.5499 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.5499 X 12 X 18= Rs.11,87,784/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of care for parents	Rs.1,00,000/-
(vii)	Funeral charges	Rs.25,000/-
(viii)	Total Compensation awarded	14,12,784/-
	Enhanced amount of compensation	Rs.14,12,784-Rs.7,45,212=Rs.6,67,572/-

12. Resultantly, the enhanced amount of compensation of Rs.6,67,572/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in a case of ***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015 (1) SCC 539***. Remaining conditions of disbursal of amount shall remain unaltered.

12. With the aforesaid modification in the impugned award, the appeal preferred by the claimants (FAO No. 1527 of 2014) is allowed to the above extent and the appeal preferred by the Insurance Company (FAO No. 4679 of 2013) stands dismissed, being devoid of

merit.

August 12, 2015
G Arora

(***RITU BAHRI***)
JUDGE