

In the High Court of Punjab and Haryana at Chandigarh

FAO No.1021 of 1993 (O&M)

Date of decision: February 23, 2016

Sunheri Devi

..... Appellant

Versus

Joga Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. P.S. Rana, Advocate for the appellant.
Mr. Suvir Dewan, Advocate for respondent No.4.
Mr. Vikas Sharma, Advocate for
Mr. R.K. Bashamboo, Advocate for respondent No.5.

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?*

AJAY TEWARI, J. (Oral)

Copy of the paper book has been supplied and the same is taken on record.

Learned counsel for the parties state that since the liability has been fastened upon respondents No.4 and 5 service upon other respondents is completed. Allowed as prayed for.

This appeal has been filed by the claimant for the enhancement of compensation and to modify the award dated

18.02.1993 awarding compensation of ₹30,000/- along with interest @ 12% per annum on account of death of Hans Raj, aged 24 years, in a motor vehicle accident on 01.08.1990.

Brief facts are that on 01.08.1990 Hans Raj boarded a four-wheeler/Tempo No.HR-4150 in front of bus stand, Panipat for going to Karnal. 5-6 other passengers also boarded the said vehicle. They were to pay fare/charges to the driver for their journey. Driver/respondent No.1 was driving the said four-wheeler in a very rash and negligent manner. When the vehicle reached near Arpana Hospital, Madhuban, it struck into the rear portion of the stationary vehicle i.e. D.C.M. Toyota bearing registration No.DEL-1253, as a result of which Hands Raj died soon after the accident.

Learned counsel for the appellant has argued that no compensation towards funeral expenses has been awarded by the Tribunal.

Learned counsel for the appellant has further argued that multiplier of 18 has to be applied instead of 05 as per the age of the deceased. Learned counsel for the respondent has argued that the multiplier has to be applied as per the age of the claimant.

I hold that multiplier of 11 has to be applied instead of 05 in view of the observations made by this Court in FAO No.5181 of 2010, titled as **Nanak Singh and another Vs. State of Punjab and another**, decided on 17.01.2014 wherein it was held

“.....Keeping in view the conflicting decisions of the Hon'ble Supreme Court and taking support from the decision

of Division Bench of our High Court in United India Insurance Company Limited v Raj Rani 1998 (1) ACJ 175, in my considered view, the age of the deceased as well as the age group of the claimants is required to be taken into consideration while adopting a multiplier for determining the dependency to award compensation to the claimant.”

Keeping in view the entire conspectus of facts, I award ₹50,000/- on account of loss of love and affection to the appellant-mother. I further award ₹10,000/- towards funeral expenses. The enhanced amount shall be paid along with 8% rate of interest from the date of filing of the claim petition till the date of realization. It is made clear that apart from the individual amount the appointment and management of the enhanced amount would be as per the direction of the Tribunal.

It is also made clear that the finding that respondent No.2 would be liable to pay half of the compensation since the deceased was travelling as gratuitous passenger is also maintained. Service of respondent No.2 is required.

The appeal is disposed of in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending Civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

February 23, 2016