

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

Decided on: 13.07.2016

1. FAO No.1519 of 1992

Gian Chand Garg

....Appellant

Versus

Jasbir Singh and others

....Respondents

2. FAO No.2195 of 1994

Gian Chand Garg and others

....Appellants

Versus

Jasbir Singh and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Navjot Singh, Advocate
for the appellants (in both the appeals)

Mr. Gurcharan Dass, Advocate
for Mr. Charanjit Singh, Advocate
for respondent No.3 (in FAO No.1519 of 1992)
and for respondent No.2-A (in FAO No.2195 of 1994)

Mr. Karamjit Singh, Advocate
for respondent No.4 (in FAO No.1519 of 1992)
and for respondent No.3 (in FAO No.2195 of 1994)

1. *Whether Reporters of local papers 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?*

REKHA MITTAL J.

This order will dispose of FAO Nos.1519 of 1992 and 2195 of 1994 “*Gian Chand Garg vs Jasbir Singh and others*” as these have emerged out of the same accident which took place on 30.10.1989, resulting in abrupt termination of two young lives of Sh. Parvesh Schnelder and his wife Smt. Dimple @ Archana Kumari.

FAO No.1519 of 1992

Counsel for the appellants has submitted that he does not press for enhancement of compensation *qua* loss of dependency as in case the appellants are allowed benefit of increase in income for future prospects to the extent of 50% but in view of the fact that the appellants are the parents of the deceased, deduction for personal and living expenses of the deceased may be increased in the light of judgment ***“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another”***, 2009(3) R.C.R. (Civil) 77. However, it is submitted that the appellants are entitled to compensation for loss of love and affection of their son and funeral expenses but no compensation under these heads has been allowed by the learned Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal').

Counsel for the contesting respondents has supported the award but submitted that in case this Court deems appropriate, token compensation may be awarded under the conventional heads.

I have heard counsel for the parties and perused the records.

The learned Tribunal has not awarded any compensation *qua* loss of love and affection and funeral expenses. The accident in question took place on 30.10.1989 and a period of three decades has intervened. In the light of various judgments on the issue particularly ***“Rajesh and others Vs. Rajbir Singh and others”***, 2013(3) R.C.R. (Civil) 170 and ***“Vimal Kanwar and others vs. Kishore Dan and***

others” 2013(2) R.C.R. (Civil) 945, the appellants are allowed an amount of **Rs.60,000/-** towards loss of love and affection and another amount of **Rs.10,000/-** for expenses on funeral. In this manner, the enhanced amount of compensation comes to **Rs.70,000/-** payable to the appellants with interest @ 7.5% per annum from the date of application till realization, to be shared equally.

FAO No.2195 of 1994

The present appeal pertains to enhancement of compensation *qua* death of Smt. Dimple @ Archana Kumari, daughter-in-law of the appellants.

Counsel for the appellants has submitted that it is proved that the deceased was working as a Pharmacist in E.S.I. Dispensary, Mandi Gobindgarh at a salary of Rs.2,327.50/- per month. It is argued that the learned Tribunal committed a serious error by holding that her salary was Rs.400/- per month in round figure which would be rather Rs.2,350/- in round figure. It is further argued that taking salary of the deceased to be Rs.400/- per month, the learned Tribunal allowed compensation at the rate of Rs.3,600/- per annum and after applying a multiplier of 8, calculated the same at Rs.28,800/-. It is argued with vehemence that in view of salary of the deceased, the compensation is liable to be enhanced after extending benefit of increase in income to the extent of 50% as the deceased was less than 40 years' of age.

Counsel for the contesting respondents have submitted that the appellants being parents-in-law of the deceased are not entitled to any compensation.

I have heard counsel for the parties and perused the records.

The deceased was married to Sh. Parvesh Schnelder about 09 days prior to the occurrence. Parvesh Schnelder was working in Germany and the deceased was likely to shift there. The deceased was married and had to raise her own family. Other sons of the appellants are well settled in life and would also be supporting their parents, however, as no appeal has been preferred by the respondents to challenge entitlement of the appellants to get compensation by raising an issue that they were not dependent upon the deceased, it would be inequitable to go into that question after a period of more than 20 years. This apart, had the appellants be not allowed to get compensation, mother of the deceased would have become entitled thereto, arrayed as respondent, but she did not press her claim for the same. In this view of the matter, I find myself unable to accept the submissions made by counsel for the contesting respondents that the appellants are not entitled to get compensation *qua* death of Dimple @ Archana Kumari.

In view of salary of the deceased at the time of death and after allowing benefit of increase in income to the extent of 50% and by taking into consideration that the deceased was not under an obligation to provide financial assistance to her parents-in-law, interest of justice would be sufficiently served, if the appellants are allowed compensation to the tune of **Rs.48,800/-**. The enhanced compensation comes to **Rs.20,000/- (Rs.48,800/- – Rs.28,800/-)** payable with interest @ 7.5% per annum from the date of filing of the application till

realization, to be shared equally by the appellants.

For the foregoing reasons, both the appeals are disposed of
in the aforesaid terms. No order as to costs.

13.07.2016
yakub

(REKHA MITTAL)
JUDGE