IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 4458 of 2002(O&M)
Date of Decision: 27.01.2016

Smt.Neelam Sikka and others ....Appellants

versus

Harinderjit Singh and others .... Respondents

CORAM: Hon'ble Mr. Justice Ajay Tewari

****

Present: Mr.Manvinder Dalal, Advocate for the appellants.

Mr.Manish Verma, Advocate for respondent No.2.

Mr.Karminder Singh, Advocate for respondent No.4-insurance company.

****

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?

Ajay Tewari, J. (Oral):

This is an appeal for enhancement of compensation in a death case.

The brief facts are that on 25.01.2000 deceased Satish Chander Sikka, who was 48 years old and a Principal in Government Girls Senior Secondary School, Chandigarh Road, Ludhiana, was standing at General Bus Stand Ludhiana near a bus which was to leave for Chandigarh. All of a sudden a bus belong to M/s New Sutluj Private Co. Ltd. Jalandhar bearing No.PB-08S-9866 being driven by

Harjinder Singh-respondent No.1 in a rash and negligent manner without blowing any horn came there and struck against the deceased who fell down and front wheel of the bus ran over him. He died on the way to hospital. This accident was witnessed by two persons namely Virender Kumar and Sudhir Kumar. The claimants are his legal heirs who filed the present claim petition and being dissatisfied with the award of the Tribunal they have filed the present appeal.

The deceased was getting Rs. 16,206/- per month as salary. His net salary was Rs.14,137/-per month. His widow who is also a Government employee, was getting monthly salary of Rs. 11,500/- and pension of Rs. 7000/- as well on account of the death of her husband i.e. Satish Chander Sikka, the deceased. She also received Rs. 3 lacs as terminal benefits of her deceased husband and was to get an amount of Rs. 1.5-2 lacs on account of gratuity/G.P.fund etc. Her two minor sons were also getting a pension of Rs. 7000/-. The deceased used to go daily from Ludhiana to Katani Kalan. Keeping in view all these facts the Tribunal assessed the monthly dependency of the claimants on the deceased to be Rs. 5000/- and annual dependency to be Rs. 5000 x 12 = Rs. 60,000/-. The Tribunal, taking the age of the deceased to be 49 years, applied the multiplier of 10. In this way the total dependency of the claimants on the deceased was worked out to Rs. 60,000 x 10 = Rs. 6,00,000/-. The interest awarded was at the rate of 9% p.a. from the date of filing of the claim petition till realisation. The awarded amount was ordered to be paid to the three claimants at the rate of Rs. 2 lacs each.

Learned counsel has argued that the Tribunal has erred in deducting the amount of family pension while calculating the dependency and in this connection has relied upon **Smt.Poonam and others v. Rajinder Parshad and others** reported as 2015(3) RCR(Civil)216, **Krishna and others v. Ram Parkash and others** reported as 2015(3) RCR(Civil) 321 and **Oriental Insurance Company Ltd. v. Saroj Devi and others** reported as 2012(3) RCR(Civil) 292.

In the circumstances the family pension being received by appellant No.1 is not to be deducted from the salary of the deceased while calculating dependency.

Learned counsel for the appellants has argued that the Tribunal has not awarded anything towards future prospects and nothing has been awarded for loss of love and affection, loss of consortium, transportation and funeral charges etc.

As regards future prospects learned counsel for the appellants has relied upon **Rajesh and others v. Rajbir Singh and others** reported as 2013(9) SCC 54. On the other hand learned counsel for the insurance company has relied upon **Reshma Kumari and others v. Madan Mohan and another** reported as 2013 AIR SC(Civil) 1731. This point has been discussed in detail by this Court in FAO No. 2990 of 2011, Manjit Kaur and others v. Ramesh Kumar and others decided on 08.01.2014. The deceased in the present case was 49 years of age. Therefore, adopting the same analogy as in FAO No. 2990 of 2011(supra), I grant an increase of 30% towards future prospects.

Learned counsel for the appellants has further argued that multiplier of 10 has been applied by the Tribunal whereas, keeping in view the age of the deceased i.e. 49 years, multiplier of 13 was appropriate as per the case of **Sarla Verma v. DTC**, reported as 2009(3) RCR(Civil) 77. I accordingly change the multiplier to 13 in place of 10.

With regard to compensation under the conventional heads, learned counsel for the appellants has again relied upon Rajesh and others(supra) and **Vimal Kanwar and others v. Kishore Dan and others** reported as 2013(3) Recent Apex Judgments 446.

As regards compensation regarding loss of love and affection, counsel for the respondent-Insurance Company has argued that the Hon'ble Supreme Court in Rajesh and others' case (supra) granted a total amount of Rs.1 lac towards loss of consortium to the widow and Rs. 1 lac to three minor children for loss of care and guidance.

Counsel for the appellants, on the other hand, has contended that in Vimal Kanwar and others' case (supra), the Hon'ble Supreme Court awarded a sum of Rs.1 lac to the widow and a sum of Rs. 2 lac to the minor girl on account of loss of love and affection, and another sum of Rs.1 lac towards loss of consortium to the widow.

Consequently I grant an amount of Rs. 1,00,000/- to appellant No.1 (widow) for loss of consortium and Rs. 1,00,000/- for loss of love and affection. Another amount of Rs.1,00,000/-each to appellants No.2 and 3 being the minor sons of the deceased on account of loss of love and affection and loss of care and guidance. Further an amount of Rs. 25,000/- is awarded for funeral expenses and transportation etc.

The apportionment and the management of the money would be as per the award of the Tribunal.

With the modification in the award, this appeal is allowed to the above extent.

(AJAY TEWARI)
JUDGE

January 27, 2016
sunita