

332-A.

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

FAO No.2522 of 1999 (O&M)

Date of decision:22.01.2016

Balbir Singh and others

... Appellants

versus

Harbans Singh and others

.... Respondents

II. FAO No.2523 of 1999 (O&M)

Sukhvinder Kaur and others

... Appellants

versus

Harbans Singh and others

.... Respondents

III. FAO No.2524 of 1999 (O&M)

Bhagat Singh and another

... Appellants

versus

Harbans Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Vinod Gupta, Advocate,
for the appellants.

Mr. Neeraj Khanna, Advocate,
for the Insurance Company.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The appeal in FAO No.2523 of 1999 is for enhancement of compensation for death of male aged 50 years in an accident that took place on 31.03.1996. The deceased was an agriculturist and owned about 20 acres of land. The Tribunal took the income @ ₹2,000/- and provided for a compensation of ₹2,41,000/- after making some addition for the conventional heads of claim like loss to estate and funeral expenses etc.

2. The counsel for the appellants seeks for enhancement on a plea that even if the estate, namely, agricultural land is not lost, the value of the managerial skills of the deceased had been lost and to be taken at not less than ₹ 4,000/- and also for a provision for the further prospect of said value of services must be considered at not less than 30%. The counsel would also seek for assessment of compensation for loss of love and affection and loss of consortium provided through some of the decisions making possible a claim of ₹1,00,000/- under each head. Since the accident is of the year 1996, there is a fair component of interest itself which will taken care of. Right upto year 2013, the head of claim for loss of consortium and loss of love and affection had been only nominal and at no time above ₹ 5,000/- and ₹10,000/-. I have, therefore, provided for lack of consortium at ₹1,00,000/- and restrict compensation for loss of love and affection to ₹50,000/- for each person. The various heads

of claims are tabulated as under:-

Accident	31.03.1996		
Age	50 years		
Occupation	Agriculturist		
Claimants	Wife, 2 sons		
	Heads of claim	Tribunal	High Court
Sr. No.		Amount (₹)	Amount (₹)
1.	Income	2,000	3,000
2.	Add,% of increase 30%		3,900
3.	Deduction 1/3		2,600
4.	Multiplicand	1,500x12	2,600x12
5.	Multiplier	13	13
6.	Loss of dependence	2,34,000	4,05,600
7.	Medical expenses		
8.	Loss of consortium	5,000	1,00,000
9.	Loss of love and affection		1,00,000
10.	Loss to estate		5,000
11.	Funeral expenses	2,000	10,000
	Total	2,41,000	6,20,600

There shall be an award of ₹6,20,600/-.

3. While assessing the income, I have taken the loss of managerial skills for a person at ₹3,000/- in the year 1996 and also prospected increase of 30% as person of age between 40 to 50. The additional compensation shall also attract interest @ 7.5% from the date of the petition till the date of payment.

4. The appeals in FAO Nos.2522 and 2524 of 1999 are also for enhancement of compensation for death of a passenger in a jeep and the driver of the jeep in a collision with the insured bus. The appeal in FAO No.2522 of 1999 is against the award of ₹2,000/- made to the parents of the passenger in the jeep who was 20 years of age. FAO No.2524 of 1999 is an appeal for enhancement of

compensation assessed for death of the driver.

5. The accident is reported to have taken place at the middle of the narrow bridge of 25 feet width. Rough sketch produced showed that after the collision, the jeep was shown to be in the left corner of the bridge with the bus standing away, stopped at a distance, relatively on the left side of the bridge. The Tribunal has observed that if both drivers had adopted appropriate care, the accident would not have taken place and apportioned the liability as 50:50. In so doing, it caused an abatement of the claim assessed for the driver at 50% and made it payable by the Insurance Company of the bus. I have no clear evidence of whether the jeep had entered the bridge earlier or whether the bus had entered the bridge earlier so that the other could have exercised the caution and stopped the vehicle to allow for one vehicle to pass the bridge. All that I can gather is that the jeep was pushed to a corner of the bridge while the bus was not. It was not again a case of a head-on collision but dashed on the driver's side. In such a situation, I would modify the decision of the Tribunal marginally to place a greater burden of care for the heavier vehicle, namely, the driver of the bus and apportion the liability as 75:25 between the driver of the bus and the jeep.

6. The claimants in FAO No.2522 of 1999 are the parents of a woman, aged 20 years. She was reported to have been married and divorced and, therefore, the parents alone were the

representatives. I would take her services as a daughter to the parents at value of ₹1,000/- and considering that the accident was of the year 1996 and apply a multiplier of 18 to find the loss of dependence at ₹2,16,000/-. I will also add ₹50,000/- as loss of love and affection to both parents and add towards to the loss of estate and funeral expenses another ₹5,000/- each. The total compensation will be ₹2,76,000/- and no portion of the amount shall abate and I will allow for the claimants to recover whole of the amount against the Insurance Company on the principle that as far as the passenger in the jeep was concerned, it was a case of composite negligence and no part of the blame of the driver of the jeep could lead to an abatement of claim. However, consistent with my finding that the jeep driver himself was responsible to 25%, 25% of the amount that is borne by the insurer could be recovered against the owner of the jeep by way of contribution in the same proceedings at the execution stage. The entitlement shall be borne by the claimants with interest at 7.5% from the date of petition till date of payment.

7. As regards the claim in FAO No.2524 of 1999, I will take the income of the deceased as taken already by the Tribunal at ₹2,000/-, make a prospect of increase at another 50%, considering that he was a driver and there was surely a scope for further increase of income, apply 50% reduction as contribution to the family and employ a multiplier of 18. The loss of dependence would come at

₹3,24,000/-. I will similarly provide for ₹50,000/- towards loss of love and affection for both parents and make further provision for loss to estate and funeral expenses and tabulate the various heads as under:-

Accident	31.03.1996		
Age	25		
Occupation			
Claimants	parents		
	Heads of claim	Tribunal	High Court
Sr. No.		Amount (₹)	Amount (₹)
1.	Income		2,000
2.	Add,% of increase 30%/50%		3,000
3.	Deduction ½, 1/3, ¼, 1/5		1,500
4.	Multiplicand		18,000
5.	Multiplier		18
6.	Loss of dependence		3,24,000
7.	Medical expenses		
8.	Loss of consortium		
9.	Loss of love and affection		50,000
10.	Loss to estate		5,000
11.	Funeral expenses		5,000
	Total		3,84,000

The total compensation is ₹3,84,000/- and consistent with the finding that the driver himself had contributed to 25%, I will hold entitlement of the parents to ₹2,88,000/- with interest at 7.5% from the date of petition till date of payment. The entitlement will be split equally between parents.

8. The awards of the court below are modified and all the appeals are allowed to the above extent.

22.01.2016
sanjeev/kv

(K.KANNAN)
JUDGE