

324 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2988 OF 1999
DATE OF DECISION:02.6.2016

JASPAL KAUR AND OTHERS ... Appellants

VS.

MANJIT SINGH AND ANOTHER ...Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. P.K. Mutneja, Advocate
for the appellants.

Mr. K.K. Gupta, Advocate
for respondent No.2.

LISA GILL, J. (ORAL)

This appeal has been preferred by the appellants for enhancement of the compensation awarded to them by the learned MACT, vide award dated 24.07.1998 on account of death of Lieutenant Colonel Chanchal Singh. The claimants are the widow, minor children and the parents of the deceased.

There is no dispute about Lieutenant Colonel Chanchal Singh having lost his life in the accident which occurred on 27.8.1995 when he was travelling from Jalandhar towards Chandigarh in a Maruti car. The accident was caused at about 10:30 a.m. near village Nayi Majra Tehsil, Nawanshaher due to the rash and negligent driving of the bus No.CH-01-G-5179 being driven by its driver Manjit Singh. FIR in this

respect was registered on 18.09.1995 (Ex.P5). A claim petition was preferred by the appellants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as The Act), claiming compensation on account of the death of Lieutenant Colonel Chanchal Singh who was 47 years old at the time of his death, drawing a salary of Rs.11,655/-. The claim was resisted by the respondents and the learned Tribunal on the basis of the pleadings of the parties framed the following issues:-

1. “Whether Lt. Col. Chanchal Singh died due to rash and negligent driving of disputed bus No.CH01G 5179 belonging to Chandigarh Transport Undertaking by Manjit Singh driver respondent No.1 as alleged? OPA
2. Whether the applicants are the legal heirs and dependents of the deceased entitled to receive compensation if so from whom and to what amount and also to the extent of their dependency on the deceased? OPA
3. Relief.”

Learned Tribunal on appreciation of the evidence on record and the facts and circumstances of the case concluded that Lieutenant Colonel Chanchal Singh lost his life in an accident on 27.8.1995, which took place due to rash and negligent driving of the offending vehicle by its driver. This finding is informed to have attained finality as no challenge has been laid to it by any of the respondents. A sum of

Rs.9,24,000/- was awarded by the Tribunal while taking the income of Lt. Col. Chanchal Singh to be Rs.11,655/- as per the salary certificate Ex.P3. A sum of Rs.3435/- was deducted on account of personal expenses along with income tax of Rs.1222/- paid by him. Multiplier of 11 was applied and loss of dependency assessed as Rs.9,22,000/-.

Learned counsel for the appellants submits that an extremely meagre amount of compensation has been awarded by the learned Tribunal keeping in view the age and rank of the appellant. Lieutenant Colonel Chanchal Singh would have retired at least as a Brigadier, if his life was not snuffed out in the accident. No compensation has been awarded on account of loss of consortium, loss of love and affection and funeral expenses. He, thus, prays for enhancement of compensation.

Learned counsel for the respondent while supporting the impugned award, submits that there is no ground for any enhancement in the compensation which has been correctly assessed.

Having heard the learned counsel for the parties and going through the record, it is clear that in view of the various authoritative pronouncements of Hon'ble the Supreme Court, compensation awarded to the claimants is required to be re-assessed. Undisputed income of the deceased is Rs.11,655/- and on deducting the amount of Rs.1220/- as income tax paid by him, it comes to Rs.10,435/-. Age of the deceased was 47 at the time of the accident. As per the judgment of the Hon'ble Supreme Court in **Sarla Verma and Ors. v. DTC & Ors. 2009 (6) SCC 121** and other pronouncements, an increase of 30% of the actual salary less income tax is to be awarded on account of loss of future prospects of

the deceased, i.e. Rs.3130/- (30% of Rs.10,435/-). Income of the deceased is thus assessed as Rs.13,565/- (Rs.10,435/- + Rs.3,130/-). A deduction of one fourth (1/4) is required to be effected keeping in view the number of dependants i.e. five (5), taking the income to be Rs.10,174/- (Rs.13,565/- – Rs.3,391/-) per month and Rs.1,22,088/- per annum. As the deceased was 47 years old at the time of death, a multiplier of 13 has to be applied taking the loss of dependency to be Rs.15,87,144/-.

Keeping in view the judgments of Hon’ble the Supreme Court of **Rajesh and others vs Rajbir Singh and others, 2013(9) SCC 54**, and **Munna Lal Jain Vs. Vipin Kumar Sharma, 2015 (6) Scale 522**, the widow is entitled to a sum of Rs.1 lac on account of loss of consortium and the children to a sum of Rs.1 lac each for loss of love and affection. The parents are entitled to a sum of Rs.50,000/- each on account of loss of love and affection. A sum of Rs.25,000/- is awarded on account of funeral expenses. The claimants are thus, entitled to a total sum of Rs.20,12,144/-.

Sr. No.	Heads under which compensation is awarded	Amount
1	Loss of dependency	Rs.15,87,144/-
2	Loss of love and affection to children (Rs.1 lac x 2)	Rs.2,00,000/-
3	Loss of consortium	Rs.1,00,000/-
4	Loss of love and affection to parents (Rs.50,000/- x 2)	Rs.1,00,000/-
5	Funeral expenses	Rs.25,000/-
	TOTAL	Rs.20,12,144/-

The appellants shall be entitled to interest at the rate of 6.5% on the enhanced amount from the date of filing of the petition till its realization. The amount already paid shall obviously be deducted from this amount.

With the aforesaid modification, this appeal is partly allowed.

June 2, 2016.
SwarnjitS

(LISA GILL)
JUDGE