IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision : May 16, 2016

1. FAO No.1871 of 2002

   Parvesh and another vs Nikka Singh and others

2. FAO No.1872 of 2002

   Pawan Kumar and others vs Nikka Singh and others

3. FAO No.1873 of 2002

   Parvesh and another vs Nikka Singh and others

4. FAO No.1874 of 2002

   Pawan Kumar and others vs Nikka Singh and others

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CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. Aakash Singla, Advocate
for the appellants.

Mr. Harman Cheema, Advocate
for Mr. SS Rangi, Advocate
for respondents No.1 and 2.

Mr. Deepak Sharma, Advocate
for Mr. Paul S Saini, Advocate
for respondent No.3.

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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 ?**

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Ajay Tewari, J (Oral)

This order shall dispose of FAO Nos.1871 to 1874 of 2002 as they arise out of the same accident and the Award.

FAO No. 1871 of 2002 has been filed by the claimants on account of death of Jiwan Kumar, FAO No. 1872 of 2002 has been filed by the claimants on account of death of Gian Chand father of Jiwan Kumar, FAO No. 1873 of 2002 has been filed by the claimants on account of death of Suresh Kumari wife of Jiwan Kumar and FAO No. 1874 of 2002 has been filed by the claimants on account of death of Santosh Rani, bhabhi of Jiwan Kumar.

These appeals have been filed by the claimants for enhancement of compensation. Brief facts are that on 9.4.1997, at about 6.30 pm, Smt. Suresh Kumari, Jiwan Kumar, Gian Chand and Santosh Rani were going from Nabha to Ludhiana in a Maruti car which was being driven by Ranjit Singh and when they reached near village Gulwati, the offending truck, being driven by respondent No.2 rashly and negligently, struck against the Maruti car and as a result of this collusion, all the occupants of the car died at the spot. In the case of death of Jiwan Kumar, the Tribunal assessed his income as ₹ 8010/- per month. After deducting 1/3 as expenses and applying multiplier of 12, total compensation came to be ₹ 7,68, 966/-. Besides this, a sum of ₹ 5,000/- has been awarded for funeral expenses. In the case of death of Gian Chand, the Tribunal has awarded a consolidated amount of ₹ 10,000/- to the claimants for loss of love and affection and a sum of ₹ 5,000/- for funeral expenses. In the case of death of Suresh Kumar, the Tribunal assessed her income as ₹ 8519/- per month. After deducting 1/3rd as expenses and applying multiplier of 12, total compensation came to be ₹ 8,15,904/-. Besides this, a sum of ₹

5,000/- has been awarded for funeral expenses. In the case of death of Santosh Rani, the Tribunal assessed her income as ₹ 1,000/- per month. After deducting 1/3rd as expenses and applying multiplier of 8, total compensation came to be ₹ 65,936/-. Besides this, a sum of ₹ 5,000/- for funeral expenses.

FAO No.1871 of 2002

Counsel for the appellants has argued that the Tribunal erred in not awarding future prospects because the deceased Jiwan Kumar was a government servant. Counsel for the respondent-Insurance Company is not in a position to deny this fact.

In the circumstances, since the deceased was 42 years old at the time of accident, I deem it appropriate to award 30% future prospects. Ordered accordingly.

Counsel for the appellants has further argued that multiplier of 12 has been applied, whereas it should have been 14. I find this to be correct and hold so. I further award a sum of ₹ 10,000/- more for funeral expenses. I also award ₹ 25,000/- to appellant No.1-Parvesh and ₹ 50,000/- to appellant No.2-Priyanka towards loss of love and affection. The enhanced amounts would carry interest @ 8% pa from the date of application till the date of payment. I also find that the appellants have now become major and, therefore, the amounts of enhanced compensation be given to them.

FAO No.1872 of 2002

Counsel for the appellants has argued that only a consolidated sum of ₹ 15,000/- has been given to the appellants on account of death of Gian Chand. The deceased was 67 years old at the time of accident.

I find the whole approach of the Tribunal to be incorrect. As per the relevant notification of the State of Punjab for the year 1997, minimum wages were ₹ 1500/- per month for an unskilled worker. Consequently, I take the minimum wages as ₹ 1500/- per month in this case also. Deduction would be half, multiplier applicable in this case would be 5. I also award a sum of ₹ 10,000/- more as funeral expenses. The enhanced amounts would carry interest @ 8% pa from the date of application till the date of payment. It is made clear that the enhanced amounts would be shared equally between appellants Parvesh and Priyanka, the children of his son Jiwan Kumar since they lost both their parents in the same accident.

FAO No.1873 of 2002

Counsel for the appellants has argued that as regards deceased-Suresh Kumari, the Tribunal has erred in not granting future prospects because she was a government servant. Counsel for the respondent-Insurance Company is not in a position to deny this fact.

In the circumstances, since the deceased was 40 years old at the time of accident, I deem it appropriate to grant 30% as future prospects. Ordered accordingly.

Counsel for the appellants has further argued that multiplier of 12 has been applied, whereas it should have been 15. I find this to be correct and hold so. I further award a sum of ₹ 10,000/- more for funeral expenses. I also award ₹ 25,000/- to appellant No.1-Parvesh and ₹ 50,000/- to appellant No.2-Priyanka towards loss of love and affection. The enhanced amounts would carry interest @ 8% pa from the date of application till the date of payment. I find that the appellants have now become major and, therefore, the amounts of enhanced compensation be given to them.

FAO No.1874 of 2002

As regards deceased Santosh Rani, counsel for the appellants has argued that the income assessed by the Tribunal is on lower side. I find this argument to be correct. In FAO No.218 of 2014, United India Insurance Co. Ltd v. Sube Singh and others, decided on 15.01.2014, this Court held as follows :-

> " Learned counsel for the appellant has argued that even while noticing that the income of a skilled worker in 2012 was approximately ₹ 8000/-, the Tribunal has wrongly assessed the income of the deceased as ₹ 9,000/-. As per him once the notional income had been taken, a deduction had to be made for personal expenses. This argument is flawed. In **Lata Wadhwa and others v. State of Bihar and others**, reported as 2001(4) RCR (Civil) 673 (where the accident had taken place in 1981) the Hon'ble Supreme Court evaluated the contribution of a house wife at ₹ 3000/- per month. The accident in the present case took place after 23 years. In my considered opinion to tag a house wife as a `skilled worker' alone does not do complete justice to her multifarious role as a home manager. Keeping in view the lapse of 23 years between the accident in the case of Lata Wadhwa and the present accident and my conclusion that a house wife is something more than a mere skilled worker it would not be unreasonable to estimate the contribution of the deceased in the present case at a higher figure. On the whole I see no reason for reducing the quantum."

In view of the above, since the accident in this case took place in 1997, I take the monthly income of the deceased as ₹ 6,000/-. Age of the deceased was about 44 years at the time of accident and consequently, I award multiplier as 14. I further award a sum of ₹ 10,000/- more for funeral expenses. I also award ₹ 25,000/- each to Mohit and Rohit, appellant Nos.3 & 4 respectively, and ₹ 50,000/- to appellant No.2-Monika towards loss of love and affection. I also award ₹ 50000/- as consortium to appellant

No.1-Pawan Kumar (husband). The enhanced amounts would carry interest @ 8% pa from the date of application till the date of payment.

These appeals stand disposed of accordingly.

(AJAY TEWARI)
JUDGE

May 16, 2016
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