

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

**F.A.O. No.5272 of 2004 (O&M)
Date of Decision : 28.04.2016**

Paramjit Kaur and others

..... Appellants

versus

Kulwant Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Sanjeev Sharma, Advocate
for the appellants.

Mr. R.C. Kapoor, Advocate
for the respondent-insurance company.

Ms. Neeru Thakur, Advocate
for Mr. Vikas Chatrath, Standing Counsel
for the CTU.

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 appeal has been filed by the claimants for the enhancement of compensation and to modify the award dated 01.10.2004 on account of death of Sh. Balbir Singh in a motor vehicular accident.

As per the case set up by the claimants, on 02.07.2003 Balbir Singh while driving his scooter with Gurmail Singh as pillion rider was

going to his village after performing his duty in Chandigarh. When they reached near Maggu Petrol Pump, Phase VI, Mohali, a Tata Sumo bearing registration No.PB-12-D-8312 being driven by respondent No.1 in a rash and negligent manner, came from the opposite side and hit their scooter. As a result thereof both of them fall down on the ground and sustained multiple injuries on their persons. They were shifted to Civil Hospital, Phase VI, Mohali and lateron referred to PGI, Chandigarh but Balbir Singh succumbed to the injuries sustained in the accident.

The Tribunal while taking the income of Rs.9,394/- p.m. assessed the dependency at Rs.6000/- p.m. The Tribunal further took the age of the deceased between 35 to 40 years and applied the multiplier of 16. The Tribunal further awarded Rs.8000/- towards loss of consortium and loss of estate and awarded total compensation of Rs.11,60,000/- along with interest @ 9% p.a.

This matter has been lingering on for the past 12 years only because some record had to be sought from the District Court which as per the successive reports has not been traced out despite best efforts. As per the learned counsel, this record was being sought only because at one stage a dispute was raised as to whether the age of the deceased was between 30-35 years or 35-40 years.

Learned counsel for the appellants has very fairly accepted that in the grounds of appeal the appellants have themselves accepted the age of the deceased as 36 years at the time of the accident.

Consequently, the age of the deceased is taken as 36 and the

multiplier has to be applied as per the judgment of the Hon'ble Supreme Court in *Sarla Verma and others v. Delhi Transport Corporation and another*, 2009 ACJ 1298.

Learned counsel for the appellants has further argued that since there are four claimants the deduction of 1/4th should have been applied for calculating the dependency. He has further argued that as per the law laid down in *Rajesh and others v. Rajbir Singh and others* reported as 2013(9) SCC 54, more amount has to be awarded on account of loss of consortium, where an amount of Rs.1 lac was awarded towards loss of consortium to the widow and Rs.1 lac each to three minor children for loss of care and guidance. He has further argued that 50% has to be added to the income on account of future prospects.

Learned counsel for the appellants has further argued that under conventional heads very less amount has been awarded and has relied upon the decision of the Hon'ble Supreme Court in *Vimal Kanwar and others vs. Kishore Dan and others*, (2013-3) PLR 776, where 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 and Rs.1 lac to the mother on account of loss of love and affection, and another sum of Rs.1 lac towards loss of consortium to the widow.

Learned counsel for the respondent-insurance company is not in a position to deny these contentions.

Keeping in view the entire conspectus of facts, I hold that future prospects should have been added in the income with the addition of

50%. I further hold that deduction of 1/4th should have been applied for assessing the dependency. I further hold that multiplier of 15 should have been applied instead of 16. I further award Rs.92,000/- more on account of loss of consortium and Rs.1 lac on account of loss of love and affection to the appellant No.1-widow. I further award an amount of Rs.1 lac to the appellant No.2-daughter and Rs.50,000/- each to the appellant No.3-daughter and appellant No.5-mother towards loss of love and affection. I further award Rs.15,000/- towards funeral expenses.

The enhanced amounts shall be paid along with interest @ 8% p.a. from the date of filing of the claim petition till realization. Apart from the individual amounts awarded, the entire enhanced amount shall be disbursed to the appellant No.1-widow. In case the appellants No.2 and 3 have become major the amount fall in their share shall be disbursed to them, otherwise the management would be as per the direction of the Tribunal. The amount fall in the share of appellant No.5-mother shall also be disbursed to her.

The appeal is allowed in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

April 28, 2016

ashish

**(AJAY TEWARI)
JUDGE**