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

**FAO No.415 of 2006
Date of decision : 25.02.2016.**

Balvir Kaur and others

.... Appellants

Vs.

Gurdial Singh and another

.... Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

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

Mr. R.S.Pathania, Deputy Advocate General, Punjab.

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AMOL RATTAN SINGH, J.

This appeal has been filed by the widow, two minor children and parents of Amarjit Singh, who was a Constable with the Punjab Police, 28 years of age, and unfortunately died while travelling in an official vehicle of his department, driven by respondent No.1. The accident is stated to have taken place in Chandigarh on 09.12.1995, after which he was shifted to the General Hospital, Sector-16, Chandigarh and thereafter, referred to the PGIMER, Chandigarh, where he succumbed to his injuries.

The accident took place with a Swaraj Mazada vehicle owned by the Punjab Police, i.e. by respondent No.2, bearing registration No.PB-12-E-7861, and a Bus of the Indo-Tibetan Border Police, owned by respondent No.4, driven by respondent No.3.

2. Upon issues being framed, as regards the issue of negligence, respondent No.1, as opposed to respondent No.3, was found guilty of negligence, for the purpose of deciding the claim petition and that finding not being subject matter of challenge in any appeal brought to the notice of this Court, is to be accepted for the purposes of this appeal.

3. As regards the compensation claimed, it was contended that Amarjit Singh was drawing a salary of Rs.7000/- per month, of which he was giving Rs.6000/- per month to the claimants. However, as per the salary certificate produced by respondent No.3 through one of his officials, the income of the deceased was shown to be Rs.3869/- per month. From the said amount, the learned Tribunal deducted 1/3rd towards the personal living expenses of the deceased (had he remained alive) and held the monthly dependent income of the appellants-claimants to be Rs.2580/- per month. Though the post mortem report stated that the deceased was 30 years of age, as against the age of 28 stated by the claimants, no discussion on that is seen in the Award of the Tribunal but a multiplier of 18 was applied, thereby bringing the total loss of dependent income to be Rs.5,57,280.

Rs.2000/- was awarded towards funeral expenses and Rs.5000/- to appellant No.1 towards loss of consortium. Thus, the total compensation awarded came to Rs.5,64,280/-, which was rounded off to Rs.5,65,000/-.

However, a rider was attached to the above, to the effect that if Rs.1,00,423/- paid to appellant No.1 by respondent No.2, was shown to be payment as compensation, and not on account of any death related benefits of the service of Amarjit Singh, then the executing Court would set off that sum from the total compensation payable by respondent No.2.

Interest @ 9% per annum was also awarded on the compensation amount, to run from the date of the filing of the claim petition, till the date of its realization.

The compensation amount was ordered to be apportioned in the ratio of 25% : 25% : 25% : 12.5% : 12.5%, between appellants No.1 to 5 respectively.

4. Before this Court, learned counsel for the appellants submitted that, firstly, the learned Tribunal erred in applying a deduction of 1/3rd instead of 1/4th, towards the personal expenses of deceased Amarjit Singh, because as per the ratio of the judgment in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another,** (2009) 6 SCC 121, where the number of dependents is 4 to 6, a 1/4th deduction is to be made.

He further submitted that the amounts awarded for loss of consortium and towards funeral expenses were highly inadequate in terms of the ratio of the aforesaid judgment and need to be enhanced. Further, no amount having been awarded to appellants No.2 and 3, i.e. the minor children of Amarjit Singh, for the loss of love, affection, care and guidance of their father and for loss of love and affection to appellants No.4 and 5, for loss of their son, those amounts would be awardable to them.

Learned counsel finally submitted that no compensation for the loss of future prospects of income having been awarded, that would also be awardable, which in the present case, in terms of the ratio of the judgments in **Rajesh and others vs. Rajbir Singh and others** (2013)(9) SCC 54 and **Vimal Kanwar and others vs. Kishore Dan and others** (2013)(7) SCC 476, would be 50% of the last drawn salary of the deceased, he being below 40 years of age.

5. Mr. R.S.Pathania, learned Deputy Advocate General, Punjab,

on the other hand, submitted that accident being of the year 1995, the amounts awarded by the Tribunal are fully adequate and as such, no further compensation needs to be paid.

6. Having considered the arguments on both sides and having considered the impugned Award, I am in agreement with the learned counsel for the appellant, inasmuch as, the amount deducted towards personal expenses of the deceased, should have been $1/4^{th}$ and not $1/3^{rd}$, in view of the ratio of the judgment in *Sarla Vermas' case* (supra).

Again, in view of the ratio of the law laid down in *Rajesh v. Rajbir* and *Vimal Kanwars'* cases (supra), the amount to be awarded towards loss of consortium to appellant No.1 would be Rs.1,00,000/-. Again in terms of the aforesaid judgments, appropriate amounts are to be awarded to the other appellants also, for loss of love and affection of the deceased.

As regards the minor children, though their age is not on record, however, the deceased being between 28 to 30 years of age, obviously they could not have been much old at the time of the death of their father. Therefore, they lost not only his love and affection but also his care and guidance, through their growing years. In *Rajesh v. Rajbirs' case* (supra), a sum of Rs.1,00,000/- was awarded to minor children, for loss of love and affection of their parent, whereas in *Vimal Kanwars' cas*e (supra), Rs.2,00,000/- was awarded to the daughter, for loss of love and affection of her father and a sum of Rs.1,00,000/- to the mother of the deceased, for loss of love and affection of her son.

Consequently, in my opinion, it would be appropriate to award a sum of Rs.1,50,000/- each to both the minor children (appellants No.2 and 3) and Rs.50,000/- each to appellants No.4 and 5, for the loss of love and affection of their young son, though that too is not an inadequate amount.

Towards funeral and last rites expenses, in *Rajesh v. Rajbir* and *Vimal Kanwars' cases* (supra), a sum of Rs.25,000/- was awarded, even though the accident in the latter case was of the year 1996. In the present case, the accident being of the month of December 1995, a sum of Rs.20,000/- is awarded towards funeral expenses and last rites.

7. As regards the compensation for loss of income, a 1/4th deduction is to be made towards the personal living expenses of the deceased; as such, from the proved salary of the deceased, i.e. Rs.3869/- per month, the said amount is to be deducted, thereby making the loss of dependency of the appellants, on that salary, to be Rs.2901.75 (rounded off to Rs.2900/-). The annual loss of dependent income, therefore, comes to Rs.34,800/- but instead of 18, a multiplier of 17 is to be applied in the case of death of a person between 25 to 30 years of age, in terms of the judgment in *Sarla Vermas' case.* Thus calculated, the loss of dependent income comes to Rs.5,91,600/- (Rs.34800 x 17).

8. Coming then to the loss of future prospects of income, though the matter has been referred to a larger Bench in the hon'ble Supreme Court, in this case, the deceased was on a fixed salary being a Government employee (Constable in the police) and hence, the loss of future prospects of income are obviously real and not dependent on imponderables.

Of course, even factoring in a 50% increase to the actual salary last drawn by the deceased, that would not take entirely into account the loss of increments in the future and promotions that he may have earned during his career, however, at least promotions again being imponderables, as per the ratio of the aforesaid judgments, the loss of future prospects of income in the present case are calculated @ 50% of the salary last drawn by the deceased, minus what he would have spent upon himself.

Thus, the annual loss of dependent income (after deducting the personal living expenses of the deceased) having been found to be Rs.34,800/-, half of that amount is to be taken as the annual loss of future prospects of income, which works out to Rs.17,400/-. To that amount, again a multiplier of 17 is to be applied, bringing the total loss of future prospects of income to be Rs.2,95,800/-. The same is accordingly awarded to the appellants.

9. Hence, by this judgment, the appellants are awarded compensation for the death of Amarjit Singh, as follows:-

i)	Loss of income	:	Rs.5,91,600/-
ii)	Loss of future prospects of income	:	Rs.2,95,800/-
iii)	Loss of consortium (to appellant No.1)	:	Rs.1,00,000/-
iv)	For loss of love and affection to appellants No.2 & 3	:	Rs.1,50,000/- each, =Rs.3,00,000/-.
v)	For loss of love and affection to appellants No.4 and 5	:	Rs.50,000/- each, =Rs.1,00,000/-
vi)	Towards funeral and last rites expenses	:	Rs.20,000/-
	Total	:	Rs.14,07,400/-

Thus, the enhanced amount of compensation, over and above what was awarded by the Tribunal (Rs.5,65,000), is Rs.8,42,400/-.

Of the above enhanced amount of compensation, a sum of Rs.2,52,400/- shall be given to appellant No.1, Rs.2,00,000/- each shall be given to appellants No.2 and 3, Rs.1,00,000/- to appellant No.4 and Rs.90,000/- to appellant No.5.

The entire amount of enhanced compensation would carry an interest @ 7% per annum, running from the date of filing of the claim petition till the date of realization thereof.

All amounts would be paid by cheque, in the name of each individual appellant. As held by the Tribunal, respondents No.1 & 2 are jointly liable to pay the enhanced compensation also.

This appeal is partly allowed in the above terms, with no order as to costs.

(AMOL RATTAN SINGH)
JUDGE

25.02.2016
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