

In the High Court of Punjab and Haryana at Chandigarh

FAO No.11 of 2008 (O&M)

Date of decision: March 16, 2016

Rani Devi and others

..... Appellants

Versus

Darshan Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Kuldeep Saini, Advocate for the appellants.
Mr. Paul S. Saini, Advocate for respondent No.3.

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?*

AJAY TEWARI, J. (Oral)

This appeal has been filed by the claimants for the enhancement of compensation and to modify the award dated 21.11.2006 on account of death of Balbir Singh, aged 47 years.

Brief facts are that on 11.11.2003 at about 08.00 A.M., the deceased was going on his scooter No.PB-16A-2432 from village Midhwan towards Anandpur Sahib for his duty at normal speed on the left side of Ropar-Nangal road and when he reached near Bhai Nand Lal Public School link road near Dera Lopowal, bus bearing No.PB-12C-

1566 driven by respondent No.1 Darshan Singh rashly and negligently

came from the opposite side and struck the bus in the scooter of the deceased and the deceased received serious injuries on his head and died at the spot.

The Tribunal while taking the income of ₹8618/- per month and applying the deduction of $1/3^{\text{rd}}$ assessed the dependency at ₹57,568/- p.a. Further by applying the multiplier 13 and giving ₹2000/- towards funeral expenses and ₹5,000/- towards loss of consortium awarded total compensation of ₹7,55,384/- along with interest @ 6% p.a. in case the payment is made within three months otherwise @ 9% p.a.

Learned counsel for the appellants has argued that the Tribunal has erred in deducting $1/3^{\text{rd}}$ amount towards his personal expenses because in the present case there were five claimants including widow, mother and three minor sons and has relied upon **New India Assurance Co. Ltd. Vs. Gopali**, reported as 2012(3) RCR(Civil) 818.

Learned counsel for the Insurance Company has fairly accepted it.

Learned counsel for the appellants has further relied upon the decision of the Hon'ble Supreme Court in the case of **Rajesh and others Vs. Rajbir Singh and others**, 2013(9) SCC 54, 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.

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 State is not in a position to deny these contentions.

As regards future prospects learned counsel for the appellants has argued that the Tribunal has awarded nothing on this account and has relied upon **Rajesh and others's case(supra)**.

On the other hand, learned counsel for the Insurance Company has relied upon **Reshma Kumari and others Vs. Madan Mohan and another reported as 2013 AIR SC(Civil) 1731**. This point has been discussed in detail by this Court in FAO No.2990 of 2011, **Manjit Kaur and others Vs. Ramesh Kumar and others** decided on 08.01.2014. The deceased in the present case was 48 years of age. Therefore, adopting the same analogy as in FAO No.2990 of 2011(supra), I grant an increase of 30% towards future prospects.

Consequently, I hold that deduction of 1/4th should be applied. I further award ₹23,000/- more as funeral expenses, ₹95,000/- for loss of consortium and an amount of ₹01 lac for loss of love and affection to appellant No.1-widow. I also award an amount of ₹50,000/- each to appellants No.2,3,4 and 5 for loss of love and affection. The enhanced amount shall be paid along with interest @ 8% from the date

of filing of the claim petition till the date of realization. I further direct that the individual amounts awarded to the minors be now handed over to them since they have attained the age of majority. Apart from the individual amounts awarded, the enhanced amount shall be awarded to appellant No.1-widow. However, it is made clear that the management and apportionment of the compensation shall be in the same manner as indicated in the award of the Tribunal.

The appeal is disposed of 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.

(AJAY TEWARI)
JUDGE

March 16, 2016
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