IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision : June 01, 2016

1. F.A.O No. 3680 of 2009 (O&M)

   Harpal Kaur and others vs Parmod Kumar and another

2. F.A.O No.3687 of 2009

   Bhan Singh and others vs Parmod Kumar and another

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CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. Ashok Jindal, Advocate
for the appellants.

Mr. Balwinder Singh, Advocate
for respondent No.2-PRTC.

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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)

These two appeals bearing FAO Nos.3680 and 3687 of 2009 arise out of an accident in which two persons viz Harpreet Singh and his wife Diljot Kaur died. In FAO No.3680 of 2009, the claimants the mother, father and brother of the deceased-Harpreet Singh, while in FAO No.3687 of 2009, the claimants are the mother-in-law, father-in-law and brother-in-law of the deceased-Diljot Kaur.

Brief facts are that on 11.11.2007, the deceased Harpreet Singh along with his wife Diljot Kaur, was going towards Maur Mandi on a motor cycle and when they reached near Gurdwara at Maur Kalan, the offending bus, being driven by respondent No.1 rashly and negligently, came from opposite side and struck against the motor cycle. As a result of this accident, both the motor cyclists received multiple injuries and died at the spot.

The Tribunal held respondent No.1 responsible for causing the accident. As regards the death of Harpreet Singh, the Tribunal granted a total compensation of ₹ 4.10 lacs, while in the case of deceased Diljot Kaur, the Tribunal granted a total compensation of ₹ 1.22 lac.

FAO No.3680 of 2009

In this burnt (and reconstructed) case, there is an application for additional evidence. Counsel for the applicants has argued that the accident had taken place on 11.11.2007 and on that day, deceased-Harpreet Singh was working as Lance Naik in the Army and his salary was taken to be ₹ 10311 per month. Subsequently, the recommendations of 6th Pay Commission were accepted w.e.f 1.1.2006. Amended salary certificate has been annexed to this application. No reply has been filed. Consequently, this application is allowed and the amended salary certificate is taken on record.

Counsel for the appellants has argued that as per amended salary certificate, the salary of the deceased was ₹ 13171/- and that the same may be taken as his salary. I find this to be correct. In view of the decision of the Hon'ble Supreme Court in Rajesh and others vs Rajbir Singh and others, 2013(9) SCC 54, 50% future prospects are granted.

Counsel for the respondent has argued that in this case, since the wife had also died, deduction could not have been 1/3rd and had to be taken as 50%. I find this also to be correct.

Counsel for the appellants has further argued that the Tribunal has erred in taking the multiplier as per the age of the parents.

As regards application of multiplier, this Court in Nanak Singh and another v. State of Punjab and another, FAO No.5181 of 2010, decided on 17.1.2014, this Court held as follows :-

> "..........Keeping in view the conflicting decisions of the Hon'ble Supreme Court and taking support from the decision of Division Bench of our High Court in United India Insurance Company Limited v Raj Rani 1998 (1) ACJ 175, in my considered view, the age of the deceased as well as the age group of the claimants is required to be taken into consideration while adopting a multiplier for determining the dependency to award compensation to the claimant."

In view of the above, since the age of the deceased was about 30 years and the age of his mother was about 60 years, multiplier of 13 is taken in this case.

Counsel for the appellants has further argued that only a sum of ₹ 2000/- has been awarded for last rites and that nothing has been awarded loss of love and affection. I find this also to be correct. In the circumstances, I award a sum of ₹ 18,000/- more as funeral expenses. I further award a sum of ₹ 1,00,000/- to appellant No.1 towards loss of love and affection. The enhanced amount shall carry interest @ 8% pa from the date of application till the date of payment. The entire enhanced amount will fall to the share of appellant No.1 and since she would now be about 70 years old, the amount be put in a fixed deposit for a period of five years and she would be entitled to the monthly interest.

This appeal stands disposed of accordingly.

FAO No.3687 of 2009

Counsel for the appellants has argued that the Tribunal erred in assessing the monthly income of the deceased. She was house wife. 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, I take the monthly income of the deceased as ₹ 9,000/-. In view of the decision of this Court in Nanak Singh and another's case (supra), multiplier would be 13 in this case also.

Counsel for the appellants has further argued that only a sum of ₹ 2000/- has been awarded for last rites. I find this also to be correct. In the circumstances, I award a sum of ₹ 18,000/- more as funeral expenses. The enhanced amount shall carry interest @ 8% pa from the date of application till the date of payment. The entire enhanced amount will fall to the share of appellant No.2 and since she would now be about

70 years old, the amount be put in a fixed deposit for a period of five years and she would be entitled to the monthly interest.

This appeal stands disposed of accordingly.

(AJAY TEWARI)
JUDGE

June 01, 2016
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