

211.

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

FAO No.5273 of 2010 (O&M)

Date of decision:18.02.2016

Shakuntla and others

... Appellants

versus

Mange Ram and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Dr. Sukant Gupta, Advocate,
for the appellants.

Mr. Amrinder Singh Sidhu, Advocate,
for the respondent No.3.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The appeal is against the compensation awarded and for component of love and affection and funeral expenses. The accident had taken place on account of collision between the motorcycle in which the deceased was travelling. It was dashed by a tractor, insured with the 3rd respondent. He was a Government teacher, aged 45 years and on his death during service, the Government of Haryana provided compassionate assistance under a scheme that allowed for the wife and children to claim the same salary which

was last drawn for a certain number of years as provided under the scheme. The Tribunal observed that since the claimants have been fully compensated by the State, there was no scope for entertaining the claim. The Tribunal, therefore, discarded the entire evidence towards loss of dependence. The order is erroneous and against the law laid down by the Division Bench of this Court in **FAO No.1322 of 2010, decided on 21.12.2012-Reliance General Insurance Company Limited Versus Purnima and others**. The Bench has reasoned that a tortfeasor or insurer cannot take any benefit out of a State scheme of compassionate assistance and make it as relevant for deductions.

2. I rework the compensation, take the income as proved through certificate, provide for the prospect of increase at 30%, make a deduction of 1/4th, apply a multiplier of 14 after reducing 10% as going towards tax, assess the total compensation and also provide for ₹1 lakh for loss of consortium and ₹50,000/- each for each of the major sons and the parents. The medical expenses already provided for shall also be included. The various heads of claims are tabulated as under:-

Accident	15.09.2008		
Age	45		
Occupation	Government Teacher	₹14,519	
Claimants	Widow, 2 sons (18+20) and parents		
	Heads of claim	Tribunal	High Court
Sr. No.		Amount (₹)	Amount (₹)
1.	Income		14,519

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2.	Add,% of increase 30%/50%		18,874.70 less 10% =16,987.23
3.	Deduction ¼		12,740.42
4.	Multiplicand		1,52,885.07
5.	Multiplier		14
6.	Loss of dependence		21,40,390
7.	Medical expenses		67,500
8.	Loss of consortium		1,00,000
9.	Loss of love and affection		2,00,000
10.	Loss to estate		10,000
11.	Funeral expenses		25,000
	Total		25,42,890

There shall be a compensation of ₹25,42,890/-. The liability shall be on the insurer. The amount shall be distributed in the ratio of 2:2:2:1:1. The parents' share of the amount shall be immediately disbursed and 50% of the sums assessed for the widow and sons are also to be distributed immediately. The remaining 50% of the sums that bear to the widow and sons' share shall be invested for a period of 6 years by splitting the amount into 6 equal portions. The first portion for a period of 1 year and 2nd portion for a period of 2 years and so on upto 6 years. The deposit shall be made in a Nationalized Bank with instruction to release the amounts as and when they mature directly to the parties by means of a cheque or transferred to their own accounts which details will be supplied by the widow and children. The disbursement shall be done by the bank after due advice to the Motor Accident Claims Tribunal.

3. There had been a delay of 1654 days in preferring the appeal. I, therefore, decline interest on the sum assessed from the

date of petition and restrict interest for the additional amount at 9% from the date of this order.

4. The award is modified and the appeal is allowed to the above extent.

(K.KANNAN)
JUDGE

18.02.2016
sanjeev