

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

FAO No.4722 of 2013(O&M)

Reshmi Devi and another ... Appellants

Versus

Krishan Kumar and another ... Respondents

AND

FAO No.5891 of 2013(O&M)

Pushpa Devi and others ... Appellants

Versus

Krishan Kumar and another ... Respondents

AND

FAO No.3897 of 2014(O&M)

United India Insurance Company Limited ... Appellant

Versus

Reshmi Devi and others ... Respondents

Date of Decision: May 12, 2016

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Ms. Amandeep Kaur, Advocate for
the claimants - appellants.
(in FAO Nos.4722 and 5891 of 2013)

Respondent No.1 already ex parte.
(in FAO Nos. 4722 and 5891 of 2013)

Mr.Paul S.Saini, Advocate for
respondent – Insurance Company
(in FAO Nos. 4722 and 5891 of 2013)

Mr. Sanjiv Pabbi, Advocate

for the appellant – Insurance Company.
(in FAO No. 3897 of 2014)

HARINDER SINGH SIDHU, J.(ORAL)

This judgment shall dispose of FAO Nos.4722, 5891 of 2013 and 3897 of 2014, as all these appeals have arisen out of the same accident.

Brief facts of the case are that on 22.10.2012 at about 2.30 P.M, Vidyachal along with Heera Lal and Pardeep Kumar was going from Dera Bassi to Lalru in a three wheeler after attending a program at Dera Bassi. When they reached in front of the office of Electricity Board Lalru, the said three wheeler was stopped by its driver on left side of the road on kacha portion and they alighted from three wheeler. In the meantime, a Trax vehicle bearing No.HR-66-4600 came at a fast speed and in a rash and negligent manner from the side of Dera Bassi and struck against Vidyachal and Heera Lal. Heera Lal died at the spot, whereas, Vidyachal was shifted to GMCH, Sector-32, Chandigarh, where, he succumbed to the injuries on 30.10.2012.

Legal representatives of the deceased filed two separate claim petitions before Motor Accident Claims Tribunal, S.A.S Nagar, Mohali (for short 'the Tribunal'), wherein, the Tribunal awarded compensation as under:-

In case of death of Vidyachal	Rs.5,75,600/-
In case of death of Heera Lal	Rs.7,60,000/-

Feeling dissatisfied with the quantum of compensation, the claimants in case of death of Vidyachal have filed FAO No.4722 of 2013 and claimants in case of death of Heera Lal have filed FAO No.5891 of 2013 for enhancement of compensation. Since, the Insurance Company was held liable to pay the compensation, it has also challenged the Award, by filing FAO NO.3897 of 2014 in case of death of Vidyachal.

The sole argument of Ld. counsel for the Insurance Company is that since the dependents of deceased Vidyachal are his parents, therefore, the multiplier was required to be applied as per the age of the dependents

and not the deceased.

The matter regarding application of multiplier was examined by three Judge Bench of the Hon'ble Supreme Court in the case of **Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65**, in which **Smt.Sarla Verma and others v. Delhi Transport Corportaion and another, 2009(3) RCR (Civil) 77**, was considered and it was held that multiplier as given in Smt.Sarla Verma's case (supra) has to be applied. In the said case, Supreme Court applied the multiplier as per age of the deceased. Therefore, the multiplier was correctly applied. In a recent judgement in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347**, the Hon'ble Supreme Court has upheld the same view that multiplier is to be applied with reference to the age of the deceased and not age of dependents of deceased.

Now, dealing with the appeals filed by the claimants, considering the decisions of the Hon'ble Supreme Court in **Smt. Sarla Verma and others** (supra) and **Rajesh and others vs. Rajbir Singh and others, 2013 ACJ 1403**, this Court finds that the compensation awarded by the Tribunal is on lower side and it needs to be re-assessed as under:-

In Case of death of Vidyachal (FAO-4722-2013):

Sr.No.	Heads	Calculation (In Rs.)
(i)	Income (after 50% increase)(deceased was aged about 22 years)	$5000+(5000 \times 50/100)=7500$
(ii)	50% of (i) deducted as personal and living expenses of deceased	$7500-(7500 \times 1/2)=3750$
(iii)	Total pecuniary loss of dependency after applying multiplier of 18	$3750 \times 12 \times 18= 8,10,000/-$
(iv)	Loss of love and affection (exclusively for the mother)	1,00,000/-
(v)	Funeral Expenses	25,000/-
	Total Compensation	9,35,000/-

In Case of death of Heera Lal (FAO-5891-2013) :

Sr.No.	Heads	Calculation (In Rs.)
(i)	Income (after 50% increase) (deceased was aged about 33 years)	$5000+[5000 \times 50/100] = 7500$ p.m.

(ii)	1/4 th of (i) deducted as personal and living expenses of deceased (4 dependants)	7500-[7500x1/4]= 5625/-
(iii)	Loss of dependency after applying multiplier of 16	5625x12x16= 10,80,000/-
(iv)	Loss of Love and Affection to children (Rs.1,00,000/- for each child)	2,00,000/-
(v)	Funeral Expenses	25,000/-
(vi)	Loss of consortium (exclusively for the claimant wife)	1,00,000/-
	Total Compensation awarded	14,05,000/-

Accordingly, FAO No.3897 of 2014 is dismissed and FAO No.4722 and 5891 of 2013 are allowed to the following extent:-

In the case of death of	Amount awarded by the Tribunal	Amount awarded by this court	Enhancement
Vidyachal	Rs.5,75,600/-	Rs.9,35,000/-	Rs.3,59,400/-
Heera Lal	Rs.7,60,000/-	Rs.14,05,000/-	Rs.6,45,000/-

The interest on the enhanced amount shall be paid at the rate of 7.5% per annum from the date of filing of claim application till realisation.

May 12, 2016
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(HARINDER SINGH SIDHU)
JUDGE