

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

(1)

**FAO No.345 of 2015 (O&M)
Date of decision : 25.02.2016**

New India Assurance Company Ltd.

.....Appellant

Versus

Shanti Devi and others

...Respondents

(2)

**FAO No.94 of 2015
Date of decision : 25.02.2016**

Smt. Shani Devi and others

.....Appellants

Versus

Dinesh Kumar and others

...Respondents

(3)

**FAO No.1364 of 1915
Date of decision : 25.02.2016**

Smt. Santosh Devi and others

.....Appellants

Versus

Dinesh Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate for appellants
in FAO No.345 of 2015 and for respondent No.3
in FAO Nos. 94 and 1364 of 2015.

Mr. Ashok Kumar Jindal, Advocate for
Mr. Sanjay Mittal, Advocate for respondents No.1 to 3 in
FAO No.345 of 2015 and for appellants in FAO Nos. 94 and
1364 of 2015.

Mr. Abhishek Yadav, Advocate for respondent No. 4
in FAO No.345 of 2015 and for respondent No.1
in FAO Nos. 94 and 1364 of 2015.

Mr. Manoj Dhankar, AAG, Haryana for respondent No.5
in FAO No.345 of 2015 and for respondent No.2
in FAO Nos. 94 and 1364 of 2015.

DARSHAN SINGH, J.

This judgment of mine shall dispose of all the three appeals mentioned above which have arisen out of the same award dated 09.09.2014 passed by learned Motor Accidents Claims Tribunal, Rewari (hereafter called the 'Tribunal'), vide which the claimants of FAO No.94 Smt. Shanti Devi and others have been awarded the compensation to the tune of ₹ 15,30,028/- on account of death of Suresh Lal Aggarwal and the claimants of FAO No.1364 of 2015 Smt. Santosh Devi and others have been awarded the compensation to the tune of ₹ 3,96,670/- on account of death of Babu Lal Aggarwal in the motor vehicular accident which took place on 13.04.2012.

2. FAO Nos.94 and 1364 of 2015 have been filed by the appellants-claimants for enhancement of the amount of compensation. FAO No.345 of 2015 has been filed by the appellant-Insurance Company assailing the amount of the compensation awarded to the claimants.

3. Learned counsel for the claimants contended that the learned

Tribunal has awarded inadequate amount of compensation. The multiplier has been awarded wrongly. No future prospects have been awarded towards the income of the deceased. They have also not been awarded loss to estate.

4. On the other hand, Mr. Vipul Sharma, Advocate for Mr. Paul S. Saini, Advocate, learned counsel for the Insurance Company contended that the income of the deceased Suresh Lal Aggarwal has been taken to be ₹ 25,000/- per month which is on higher side. Thus, the amount of compensation computed by the learned Tribunal is exorbitant. He further contended that the multiplier has been rightly applied by the learned Tribunal in view of the age of the deceased. They were more than 60 years of age. So, no future prospects were permissible.

5. I have duly considered the aforesaid contentions.

6. The learned Tribunal has determined the income of deceased Suresh Lal Aggarwal to be ₹ 25,000/- per month. Learned counsel for the appellant-Insurance Company has contended that the income of the deceased has been taken to be on the higher side. He was a retired person. The documents produced with respect to his re-employment do not inspire confidence. But these contentions raised by learned counsel for the Insurance Company have no substance. As per the statement of PW3 Ritu Aggarwal daughter of deceased Suresh Lal Aggarwal, he had retired from the post of Associate Professor K.L.P. College, Rewari, which is a senior post. She further deposed that at the time of accident deceased Suresh Lal Aggarwal was working as Director/Principal Swaranjali Group of Institutions, Bithwana and was getting ₹ 25,000/- per month as salary. PW4 Naresh Kumar has proved the salary certificate as Ex. PW4/1 and copy of

his appointment letter Ex.PW4/2. He has also produced the copy of the attendance register Ex.PW4/3. Mere this fact that he died just after 12 days of his re-employment is no ground to discard the aforesaid documents. So, no fault can be found with the income of the deceased determined by the learned Tribunal i.e. ₹ 25,000/- per month.

7. As the deceased was more than 60 years of age at the time of his death, so no future prospects were required to be added to the income of the deceased. As per the postmortem report, the age of the deceased was 62-63 years. As per the law laid down by Hon'ble Apex Court in case ***Sarla Verma and others Vs. Delhi Transport Cooperation and another (2009) 6 SCC 121***, the multiplier of 7 is applicable for the age group of 61 to 65. So, the learned Tribunal has rightly applied the multiplier of 7. The compensation awarded under the other conventional heads is also just and appropriate, which does not call for any further enhancement or reduction.

8. Now I take up the case of appellant of FAO 1364 of 2015. They have sought the compensation to the tune of ₹ 15,00,000/- on account of the death of Babu Lal Aggarwal in this accident. It is alleged that deceased Babu Lal was a businessman and was earning ₹ 2,30,000/- to ₹ 2,50,000/- per annum. The claimants have also brought on record the documents Ex.PA and Ex.PB with respect to the income tax returns. These documents show that the said income tax return relates to Firm Ramesh Chand Ghanshyam Dass. PW6 Ram Avtar Aggarwal, the brother of the deceased, has admitted that said firm was having three partners. But he could not tell the ratio of share of partners in the firm. The claimants have not placed on file the copy of the partnership deed. So, the learned Tribunal

has rightly taken into consideration the 1/3rd share of the income of the firm *i.e.* ₹ 80,000/- per annum as the income of the deceased.

9. The age of the deceased was recorded as 70 years in the postmortem report. Thus, as he was more than 60 years of age on the date of death so no future prospects were required to be added. As per the law laid down in ***Sarla Verma and others Vs. Delhi Transport Cooperation and another*** (supra) the multiplier of 5 is applicable for the age group of 66 to 70. The deceased also falls in this age group. So, the learned Tribunal has rightly applied the multiplier of 5. The compensation awarded under the other conventional heads is also just and appropriate.

10. Thus, keeping in view the aforesaid discussion all the appeals are without any merits and the same are hereby dismissed.

25.02.2016
sunil yadav

(DARSHAN SINGH)
JUDGE