

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

(1)

**FAO No.2739 of 2016 (O&M)
Date of decision : 05.12.2016**

Uttarakhand Transport Corporation

.....Appellant

Versus

Ram Parkash and others

...Respondents

(2)

**FAO No.3584 of 2016 (O&M)
Date of decision : 05.12.2016**

Ram Parkash and another

.....Appellants

Versus

Jagtar Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present : Mr. Amit Jaswal, Advocate for appellant
in FAO No.2739 of 2016 and for
respondents No.2 and 3 in FAO No.3584 of 2016.

Mr. Balbir Singh Sewak, Advocate for appellants
in FAO No.3584 of 2016 and for
respondents No.1 & 2 in FAO No.2739 of 2016.

DARSHAN SINGH, J.

**CM-24611-CII-2016 in
FAO-2739-2016**

For the reasons mentioned in the application, same is
allowed. The main appeal is taken up for hearing in urgent cases.

CM-10164-CII-2016 in
FAO-2739-2016

Heard. For the reasons mentioned in the application, same is allowed and the delay of 03 days in filing the appeal is hereby condoned.

CM-12619-CII-2016 in
FAO-3584-2016

Heard. For the reasons mentioned in the application, same is allowed and the delay of 08 days in filing the appeal is hereby condoned.

Main Appeals

Notice of motion in FAO No.2739 of 2016 to respondents No.1 & 2 only.

Notice has been accepted by Mr. Balbir Singh Sewak, Advocate on behalf of respondents No.1 & 2.

Notice of motion in FAO No.3584 of 2016 to respondents No.2 & 3 only.

Notice has been accepted by Mr. Amit Jaiswal, Advocate on behalf of respondents No.2 & 3.

So, service in both the appeals is complete.

Learned counsel for both the parties stated that they are ready to address the arguments for the disposal of both the appeals.

2. This judgment shall dispose of both the appeals captioned above, which have been arisen out of the same award dated 09.12.2015 passed by the learned Motor Accidents Claims Tribunal, Yamunanagar at Jagadhari (hereinafter called the “Tribunal”), whereby the claim petition

filed by the appellants-claimants of FAO No.3584 of 2016 under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”) for grant of compensation on account of death of Chander Shekhar in the motor vehicular accident which took place on 10.12.2013 has been allowed and they have been awarded compensation to the tune of ₹10,10,000/- along with the interest at the rate of 8% per annum from the date of filing the claim petition till realization.

3. FAO No.2739 of 2016 has been filed by Uttarakhand Transport Corporation, the owner of the bus bearing registration No.UA-07K-8075 to assail the award and FAO No.3584 of 2016 has been preferred by the appellants-claimants for enhancement of the amount of compensation.

4. I have heard heard learned counsel for the parties and have gone through the record of the case meticulously.

5. Initiating the arguments, learned counsel for the owner of the vehicle contended that the deceased was just a student of B.B.A. He has not yet completed the studies but the learned Tribunal has wrongly taken the income of the deceased to be ₹10,000/- per month which is highly exaggerated. Thus, he contended that the compensation awarded by the learned Tribunal is exorbitant.

6. Mr. Balbir Singh Sewak, Advocate counsel for the claimants contended that the deceased was the student of 3rd and final year of B.B.A. He was a sportsman of the national level, his income has

been rightly determined by the learned Tribunal. Learned counsel further contended that learned Tribunal has wrongly applied the multiplier. The multiplier of 18 should have been applied as per the age of the deceased, who was just 20 years of age. He further contended that no amount has been awarded to the parents of the deceased towards love and affection. Thus, he contended that just amount of compensation has not been awarded by the learned Tribunal.

7. I have duly considered the aforesaid contentions.

8. This fact is not disputed that the deceased was a student of B.B.A. 3rd year in Yamuna Institute of Engineering and Technology, Gadholi. The claimants have also brought on record the evidence to prove that the deceased was a sportsman having represented the Kurukshetra University, Kurukshetra in Inter University shooting air rifle championship held in 2012-13. He also represented the State of Haryana in 56th National School Games held in 2010-11. He scored the first position in 45th Haryana State School Tournament held in Shahbad. He also received silver medal in Kurukshetra District Shooting Championship held in 2009 and first position in rifle shooting in District Sports Championship, Kurukshetra held on 27.07.2010. PW-2 Rajinder Sangwan, Director Sports, Yamuna Group of Institutions, Gadholi also deposed that deceased was sportsman of their college. Thus, keeping in view the fact that deceased was student of 3rd year of B.B.A. and was an outstanding sportsman, the income of the deceased determined by the

learned Tribunal at the rate of ₹10,000/- per month cannot be stated to be exaggerated. Thus, the income of the deceased has been rightly determined by the learned Tribunal at the rate of ₹10,000/- per month. The learned Tribunal has also correctly deducted 50% of the income of the deceased towards his personal and living expenses as the deceased was bachelor and the claimants are the parents, so the remainder comes to ₹5000/- i.e. ₹60,000/- per month.

9. The learned Tribunal has wrongly applied the multiplier of 16 taking into consideration the age of the claimants, but as per the law laid down by Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the multiplier should have been applied as per the age of the deceased. Deceased Chander Shekhar was 20 years of age at the time of his death. So, the multiplier of 18 shall be applicable. Thus, the loss of dependency comes to ₹10,80,000/-. The learned Tribunal has awarded total ₹50,000/- towards conventional heads and towards love and affection relying upon the case ***Kishan Gopal and another Vs. Lala and others 2014(1) PLR 276***, but in that case the deceased was only a child of 10 years. Here deceased Chander Shekhar was a grown up youth. So the mother of the deceased shall be entitled to ₹1,00,000/- towards loss of love and affection of her son. The claimants shall also be entitled to ₹25,000/- towards funeral and last rites expenses. In this way, the total amount of compensation comes out to ₹12,05,000/-.

10. Thus, keeping in view my aforesaid discussion, FAO No.2739 of 2016 filed by appellant Uttarakhand Transport Corporation, the owner of the offending vehicle has no merits and the same is hereby dismissed. FAO No.3584 of 2016 filed by the appellants-claimants is hereby partly allowed. The amount of compensation payable to the appellants-claimants is enhanced to ₹12,05,000/- from ₹10,10,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced amount of compensation at the rate as determined by the learned Tribunal from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation and the apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the main award.

05.12.2016

sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No