

FAO No. 5646 of 2014

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In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: July 22, 2016

FAO No. 5646 of 2014

General Manager Rajasthan State Road Transport Corporation

---Appellant

vs.

Smt. Ram Pyari and another

---Respondents

FAO No. 5648 of 2014

General Manager Rajasthan State Road Transport Corporation

---Appellant

vs.

Suman and others

---Respondents

FAO No. 5649 of 2014

General Manager Rajasthan State Road Transport Corporation

---Appellant

vs.

Sunita and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.A.K.Gahlawat, Advocate
for the appellant

Mr. Ajit Sihag, Advocate
for the respondents in FAO Nos. 5648 of 2014
and for respondents No. 1 and 2 in FAO Nos. 5646 and 5649 of
2014

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

Rekha Mittal, J.

This order will dispose of FAO Nos. 5646, 5648 and 5649 of 2014 as these have emerged out of the same award dated 4.4.2014 passed by the Motor Accident Claims Tribunal, Bhiwani (in short “the Tribunal”).

FAO Nos. 5646 and 5649 of 2014

The sole contention raised by counsel for the appellants is that

as compensation has been claimed by parents of the deceased namely Baljit and Dinesh respectively, deduction towards personal expenses is required to be 50% in place of 1/3rd as has been allowed by the learned Tribunal. It is further submitted that the respondents/claimants have not alleged and proved any special circumstances to justify deduction less than 50%.

Counsel for the respondents, on the other hand, has submitted that the learned Tribunal has not awarded any compensation for loss of love and affection.

I have heard counsel for the parties and perused the paper book particularly the award passed by the Tribunal.

Smt. Ram Pyari and Mewa Singh claimed compensation qua death of their son Baljeet whereas in regard to death of Dinesh, compensation was claimed by Smt. Sunita and Rajpal (parents of Dinesh). Perusal of award passed by the learned Tribunal would substantiate plea of the appellant that no such special circumstances have been pleaded by the claimants in order to vary from deduction to the extent of 50% approved by Hon'ble the Supreme Court of India in **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**. In this view of the

matter, I find merit in contention of the appellant that deduction to the extent of 50% is to be allowed in both the cases in order to compute loss of dependency.

The Tribunal has an obligation to assess compensation that is just reasonable and equitable in order to make good the loss in terms of money, suffered by the victim family. The Tribunal has not awarded any compensation for loss of love and affection to the claimants in both the cases. The claimant are allowed an amount of Rs. 1 lakh payable in equal share towards loss and affection in each case. In this way, the total amount of compensation payable to Smt. Ram Pyari and Mewa Singh is computed hereinbelow:-

Loss of dependency- Rs. 4500 x 12 x 17=Rs.9,18,000/-

Loss of love and affection = Rs. 1,00,000/-

Funeral and transportation expenses =Rs. 25,000/-

Total =Rs. 10,43,000/-

Thus, the amount of compensation is reduced to the tune of Rs. 2,06,000/- (Rs. 12,49,000-10,43,000/-), recoverable by the appellant.

The compensation payable to Sunita and others is calculated in

the following terms:-

Loss of dependency- Rs. 4500 x 12 x 18= Rs.9,72,000/-

Loss of love and affection = Rs. 1,00,000/-

Funeral and transportation expenses = Rs. 25,000/-

Total Rs. 10,97,000/-

Hence, the amount of compensation is reduced to the tune of Rs. 2,24,000/-

(Rs. 13,21,000-10,97,000), recoverable by the appellant.

FAO NO. 5648 of 2014

Counsel for the appellants submits that deceased Suresh was held to be 40 years of age but the Tribunal has allowed multiplier of 16 against the permissible multiplier of 15 in the light of judgment in **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298** affirmed in **Reshma Kumari and others vs. Madan Mohan and another 2013(2) RCR(Civil) 660**.

Counsel for the respondents, on the other hand has submitted that the learned Tribunal has not awarded any compensation for loss of love and affection to children of the deceased namely Samir and Aman.

The learned Tribunal in para 52 of the judgment has noticed

that as per averments in the petition, the deceased was 40 years old and his age, as per the post mortem report (Ex. PW4/B) is also 40 years. In view of age of the deceased, a multiplier of 15 is admissible as per judgment in **Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298**. The Tribunal has not awarded any compensation to children of the deceased for loss of love and affection of their father. They are awarded an amount of Rs. 1.5 lac in equal share for loss of love and affection. The compensation payable to the respondents/claimants is calculated as under:-

Loss of dependency = Rs. 81000 x 15 = Rs.12,15,000/-

The total amount of compensation payable is = Rs.12,15,000

+Rs1,00,000 +Rs.1,50,000 +Rs.2,30,000 + Rs.25000=

Rs.17,20,000/- and enhanced compensation is Rs. 69,000/-

(Rs. 17,20,000- 16,51,000/-).

The enhanced compensation of Rs. 69,000/- shall carry interest at the rate awarded by the Tribunal payable from the date of filing of the petition till realization.

The enhanced compensation shall be payable to children in

equal share and deposited in the shape of FDR in a nationalized bank till they attain the age of majority.

Appeals stand disposed of accordingly.

(Rekha Mittal)
Judge

July 22, 2016
paramjit