

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

Date of Decision: 08.08.2017

1. FAO No.3920 of 2014

Khushbu and othersAppellants

Versus

Dolu Ghosh @ Nibhash Ghosh and others ... Respondents

2. FAO No.3921 of 2014

Khushbu and othersAppellants

Versus

Dolu Ghosh @ Nibhash Ghosh and others ... Respondents

3. FAO No.3922 of 2014

JhalakAppellant

Versus

Dolu Ghosh @ Nibhash Ghosh and others ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:None for the appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Deepak Suri, Advocate
for respondent No.3/National Insurance Company
Ltd.

RAJ MOHAN SINGH, J.

[1]. Vide this common judgment, FAO No.3920 of 2014
titled Khushbu and others Vs. Dolu Ghosh @ Nibhash Ghosh
and others, FAO No.3921 of 2014 titled Khushbu and others Vs.

Dolu Ghosh @ Nibhash Ghosh and others and FAO No.3922 of 2014 titled Jhalak Vs. Dolu Ghosh @ Nibhash Ghosh and others are being decided. Since the aforesaid appeals have arisen out of one accident, therefore, the facts are being taken from FAO No.3920 of 2014.

[2]. Petitions under Section 166 of the Motor Vehicles Act were filed by the claimants for grant of compensation on account of death of Surjit Kumar son of Jaswant Singh, death of Smt. Monika @ Sangeeta Yadav wife of Surjit Kumar and injuries to Jhalak in a vehicular road side accident.

[3]. All the aforesaid petitions were consolidated by the Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal') and evidence was recorded in MACT case No.280 of 2012 i.e. Khushbu and others Vs. Dolu ghosh @ Nibhash Ghosh and others.

[4]. Brief facts are that the accident took place on 08.08.2012, when Jhalak and Himanshi along with their father Surjit Kumar, mother Smt. Monika @ Sangeeta Yadav and maternal grandmother were going to the house of their maternal grand parents in the village in a bus, which was going to Agartala. The driver i.e. respondent No.1 was driving the said bus with high speed in a rash and negligent manner. At about 5.00 AM, when the bus reached at N.H 44, J.B. Road, near

turning point of Tongseng, the driver of the bus lost control over the bus and the bus fell into ditches about 400 feet in depth. Jhalak received serious injuries on her face and her jaw was broken. She also sustained fracture on her leg. Himanshi got hanged on a tree and also sustained injuries on her person. She remained hanging on the tree for about 10 hours. Surjit Kumar and Smt. Monika @ Sangeeta Yadav and maternal grandmother died at the spot due to serious injuries on their person. The accident took place due to rash and negligent driving of respondent No.1, for which a criminal case was registered against him.

[5]. In Claim Petition No.280 of 2012, the claimants claimed compensation on account of death of Surjit Kumar in the said accident. They claimed that deceased Surjit Kumar was 34 years of age at the time of accident and was earning Rs.15,000/- per month.

[6]. Tribunal decided issue No.1 in favour of the claimants, thereby holding that the accident in question took place due to rash and negligent driving of respondent No.1. Under issues No.2 and 3, the Tribunal held that the monthly income of deceased Surjit Kumar was Rs.4200/- per month from his pursuit of vegetable vendor. His age was considered to be 34 years at the time of death. After deducting 1/3rd amount towards

self expenses, monthly dependency of the claimants was assessed to be Rs.2800/- per month i.e. Rs.33,660/- per year. After applying multiplier of 16, the amount was worked out to be Rs.5,37,600/-. An amount of Rs.10,000/- towards loss of love and affection and an amount of Rs.10,000/- towards last rites of deceased Surjit Kumar was added. In this way, an amount of Rs.5,57,600/- was worked out towards compensation on account of death of Surjit Kumar.

[7]. In my considered opinion, the income of deceased Surjit Kumar to the extent of Rs.4200/- per month is on the lower side even by guess work. As per Government norms, the rate prevailing in the year 2012 in case of even an unskilled labourer, cannot be less than 6000/- per month in any case. For assessing such income, some guess work has to be applied. In my considered opinion, deceased Surjit Kumar was earning Rs.6000/- per month to which a deduction to the tune of 1/3rd was to be applied and therefore, his monthly income was Rs.4000/- per month i.e. Rs.48,000/- per annum to which multiplier of 16 was to be applied in view of ratio laid down in **Smt. Sarla Verma Vs. Delhi Transport Corporation 2009 (3) RCR (Civil) 77 .** In this way, the amount after applying multiplier would come out to be Rs.7,68,000/- (48,000X16=7,68,000). An amount of Rs.1,00,000/- each i.e.

Rs.3,00,000/- towards loss of love and affection in favour of the claimants can be ordered on the basis of ratio laid down in **Smt. Neeta and others Vs. The Divisional Manager, MSRTC, Kothapur, 2015(1) RCR (Civil) 625**. An amount of Rs.25,000/- has to be awarded towards funeral expenses. In this way, total amount of compensation has to be computed to the tune of Rs.10,93,000/- (7,68,000+3,00,000+25,000=10,93,000).

[8]. In view of aforesaid, the amount of compensation is worked out as under:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in appeal	Difference
1.	Monthly income	2800/- (after deducting 1/3d towards self expenses)	4000/- (after deducting 1/3 rd towards self expenses)	
2.	Annual Dependency	2800X12 =33,600/-	4000X12 =48,000/-	14,400/-
3.	Compensation after multiplier	5,37,600/-	7,68,000/-	2,30,400/-
4.	Loss of love and affection	10,000/-	3,00,000/-	2,90,000/-
5.	Funeral expenses	10,000/-	25,000/-	15,000/-
6.	Total compensation	5,57,600/-	10,93,000/-	5,35,400/-

[9]. The enhanced amount i.e. Rs.5,35,400/- shall carry interest @7.5 % from the date of filing of the claim petition till

final realisation of the amount.

FAO No.3921 of 2014

[10]. In MACT case No.281 of 2012, the same claimants have filed the petition for grant of compensation on account of death of their mother Smt. Monika @ Sangeeta Yadav. The Tribunal awarded an amount of 3,26,000/- along with interest @ 7.5% on account of death of Smt. Monika @ Sangeeta Yadav. Deceased Smt. Monika @ Sangeeta Yadav was 30 years of age. Her contribution towards the family was assessed to be Rs.1500/- i.e. Rs.18,000/- per annum. Keeping in view her age to be 30 years at the time of accident, multiplier of 17 was applied in view of ratio laid down in **Smt. Sarla Verma's case (supra)** and the amount was calculated as Rs.3,06,000/-. An amount of Rs.10,000/- towards love and affection and an amount of Rs.10,000/- towards funeral expenses was assessed, thereby making total amount of compensation to the tune of Rs.3,26,000/-

[11]. I have considered the facts and material on record. There is a scope of enhancement of compensation towards loss of love and affection to the claimants on the parameters laid down by the Hon'ble Apex Court in **Smt. Neeta's case (supra)**, wherein an amount of Rs.1,00,000/- each towards love and affection in favour of minor children was granted. Since, there

are three claimants, therefore, claimants are entitled to an amount of Rs.3,00,000/- towards love and affection. The claimants are also entitled to an amount of Rs.25,000/- towards funeral expenses.

[12]. In view of aforesaid, the amount of compensation is worked out as under:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in appeal	Difference
1.	Monthly income	1500/-	1500/-	
2.	Annual Dependency	1500X12 =18,000	1500X12 =18,000	
3.	Compensation after multiplier	3,06,000/-	3,06,000/-	Nil
4.	Loss of love and affection	10,000/-	3,00,000/-	2,90,000/-
5.	Funeral expenses	10,000/-	25,000/-	15,000/-
6.	Total compensation	3,26,000/-	6,31,000/-	3,05,000/-

[13]. The enhanced amount i.e. Rs.3,05,000/- shall carry interest @7.5 % from the date of filing of the claim petition till final realisation of the amount.

FAO No.3922 of 2014

[14]. In MACT case No.282 of 2012, injured Jhalak claimed compensation to the tune of Rs.5,00,000/- on account of injuries suffered by her. The Tribunal awarded a consolidated amount of Rs.30,000/- towards pain and sufferings, expenses incurred

towards special diet, attendant charges, transportation and cost of treatment in favour of the claimant.

[15]. As per material on record, injured Jhalak was shifted to Hospital and got treatment from General Hospital, Narnaul and PGIMS, Rohtak. Discharge slip of Civil Hospital, Jowai was produced on record, showing that she was discharged on 10.08.2012. She had suffered fracture of down mandible and was referred to Shillong Civil Hospital for further treatment. As per prescription slip Ex.17 of Eklavya Dental College and Hospital, she had received treatment from dental hospital. As per OPD card Ex.P20 of PGIMS, Rohtak, she remained as outdoor patient in PGIMS, Rohtak. Since the parents of the claimant also died in the same accident, the mental trauma and agony might have been suffered by the injured despite injuries on her person.

[16]. Tribunal awarded a consolidated amount of Rs.30,000/- towards all the heads. In my considered opinion, the amount awarded by the Tribunal is on the lower side. Keeping in view the totality of facts and circumstances of the case, I deem it appropriate to enhance the amount from Rs.30,000/- to Rs.1,00,000/- towards pain and sufferings, special diet, attendant charges, transportation and medical expenses.

[17]. The enhanced amount i.e. Rs.70,000/- shall carry

interest @7.5 % from the date of filing of the claim petition till final realisation of the amount.

[18]. With the aforesaid modification, these appeals are disposed of.

[19]. A photocopy of this order be placed on the files of connected cases.

08.08.2017
prince
Whether Reasoned/Speaking

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Whether Reportable

Yes/No