IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 11.10.2017

X-OBJC No.70-CII of 2014 in/and
FAO No.5630 of 2013 (O&M)

Managing Director, Punjab State Bus Stand Management Co. Ltd. and anr.

...Applicant/Appellants

Versus

Smt. Neetu and others

...Respondents

X-OBJC No.69-CII of 2014 in/and
FAO No.5631 of 2013 (O&M)

Managing Director, Punjab State Bus Stand Management Co. Ltd. and anr.

...Applicant/Appellants

Versus

Smt. Lakhwinder Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Kuldip Singh, Sr. DAG, Punjab
for the appellants.

Mr. Ishan Cooner, Advocate
for respondents No.1 to 3, 5 and 6/Cross objectors
in FAO No.5630 of 2013 and
for respondents No.1 to 5/Cross objectors
in FAO No.5631 of 2013.

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REKHA MITTAL, J. (Oral)

CM No.23613-CII of 2013 in FAO No.5630 of 2013
and
CM No.23617-CII of 2013 in FAO No.5631 of 2013

Heard.

For the reasons stated in the applications supported by affidavit of Mr. Balkaran Singh Brar, General Manger, Punjab Roadways, Sri Muktsar Sahib, same are allowed. Delay of 13 days in filing the appeals is condoned.

Main Cases

This order will dispose of FAO Nos.5630 and 5631 of 2013 and Cross-objections No.70-CII-2014 in FAO No.5630 of 2013 and Cross-objections No.69-CII-2014 in FAO No.5631 of 2013 as these have emerged out of the same award dated 01.08.2013 passed by the Motor Accidents Claims Tribunal, Amritsar whereby compensation has been awarded in regard to death of Major Singh and Harjinder Singh in a motor vehicular accident that took place on 15.06.2012.

FAO No.5630 of 2013 and Cross-Objections No.70-CII-2014

Counsel for the appellants, at the very outset, would inform that the appeal has been preferred to challenge quantum of compensation assessed by the Tribunal in regard to death of Major Singh. Cross objections have been filed by the claimants seeking enhancement of compensation.

The Tribunal awarded compensation of Rs.8,76,000/-, detailed hereunder:-

Monthly loss of income	Rs.6,000/-
Deduction for personal expenses	1/3rd
Multiplier	17
Loss of dependency	Rs.6000 x 12 x 17 – 1/3rd thereof = Rs.8,16,000/-
Funeral expenses	Rs.5,000/-
Loss of consortium	Rs.10,000/-
Loss of estate	Rs.5,000/-
Medical Expenses	Rs.40,000/-
Total	**Rs.8,76,000/-**

Counsel for the appellants has submitted that the claimants failed to adduce any evidence with regard to income of the deceased or his date of birth, therefore, the Tribunal has wrongly assessed income of the deceased at Rs.6,000/- per month and applied multiplier of 17.

Counsel representing the claimants/cross objectors, on the other hand, would urge that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50%. In the postmortem report, Major Singh is described to be 28 years old, therefore, the Tribunal has rightly applied multiplier of 17 in the light of judgment of Hon'ble the

Apex Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**. Another submission made by counsel is that compensation awarded under conventional heads needs enhancement in the light of judgments of the Apex Court **Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54** and **Vimal Kanwar and others Vs. Kishore Dan and others, (2013) 7 SCC 476.**

Counsel for the appellants, in reply, has submitted that the claimants are not entitled to increase in income for future prospects as the matter is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in **National Insurance Company Ltd. Vs. Pushpa,** (SLP (c) No.16735 of 2014).

The Tribunal in Para 14 of the award has noticed that according to the claimants, deceased was a singer working with Bikar Singh and Party, Amritsar, but no evidence, oral or documentary, in that regard has been produced. The Tribunal by taking into consideration wage of a casual labour assessed income of the deceased at Rs.6,000/- per month. I have gone through the notification issued by the State of Punjab fixing minimum wage for different categories of unskilled and skilled labour. Taking a clue from the notification in vogue at the relevant time, income of the deceased is assessed at Rs.4500/- per month.

Indisputably, in the postmortem report, age of the deceased is recorded as 28 years old. Plea of claimants is that the deceased was 27 years old. No evidence has been adduced by the appellants to counter the oral and documentary evidence placed on record to establish age of the deceased. There is no challenge to plea of Smt. Neetu, widow of the deceased that she was 25 years old at the time of occurrence. Under the circumstances, findings of the Tribunal allowing multiplier of 17 for computing loss of dependency cannot be faulted with.

The Tribunal has not allowed benefit of increase in income for future prospects. The deceased was a young person aged 28 years. He left behind family consisting of his widow and two minor children aged 8 months and 2 years. There is nothing on record suggestive of the fact that the deceased would have stagnated at income of Rs.4500/- per month, had he remained alive. I stand fortified in my observation from the fact that State Governments revise minimum wages at short intervals. In this view of the matter, the mere fact that reference is pending before a Larger Bench of Hon'ble the Supreme Court is not sufficient to deny benefit of increase in income for future prospects till judgment in **Rajesh's case (supra)** is varied or set aside. The claimants are accordingly entitled to increase in income to the extent of 50%. Deduction for personal expenses applied by the Tribunal is affirmed. In this manner, loss of dependency comes to Rs.4500 x 12 x 17 + 50% (for future prospects) – 1/3 rd (towards personal expenses) =

Rs.9,18,000/-.

Under conventional heads, the claimants shall be entitled to following compensation:-

Loss of consortium to the widow	Rs.1 lakh
Loss of love and affection, care and guidance for the children	1.5 lakh (to be shared equally)
Expenses on funeral/last rites	Rs.25000
Loss of estate	Rs.25,000/-
Total	**Rs.3,00,000/-**

Medical expenses to the tune of Rs.40,000/- allowed by the Tribunal are affirmed. In view of the above, total compensation comes to Rs.12,58,000/- and additional amount is Rs.3,82,000/- (12,58,000 – 8,76,000) which shall carry interest @ 7.5 per annum from the date of petition till realization. The additional amount shall be payable to children of the deceased in equal ratio except enhanced loss of consortium to the tune of Rs.90,000/- payable to widow of the deceased. The share of minor children shall be deposited in FDRs payable on their attaining age of majority or for a period of three years, whichever is later. Interest accruing on the FDRs shall be paid to mother of the minor children for meeting expenses of their education and living. The appeal and cross objections are disposed of in the aforesaid terms.

FAO No.5631 of 2013 and Cross-Objections No.69-CII-2014

In view of the findings recorded in aforesaid case pertaining to death of Major Singh, income of the deceased-Harjinder Singh is assessed at Rs.4500/- per month and the claimants are entitled to increase in income for future prospects to the extent of 50%.

The Tribunal has applied cut of 1/3rd for personal expenses of the deceased. The application for compensation was filed by Lakhwinder Kaur (widow), Avtar Singh and Navjot Kaur (minor children) and parents of deceased Harjinder Singh. The Tribunal in Para 13 has observed that there is nothing to show that parents of Harjinder Singh had been residing with the deceased and his family and were dependent upon the deceased and by relying upon judgment of Hon'ble the Supreme Court **Smt.Sarla Verma and others vs. Delhi Transport Corporation and another 2009 ACJ 1298** has allowed deduction to the extent of 1/3rd. The mother of the deceased is a class-I heir. It is categoric plea of the claimants that the appellants suffered loss due to untimely death of Harjinder Singh. Under the circumstances, it is difficult to record a finding that mother of the deceased is not entitled to get compensation. That being so, admissible deduction for personal expenses would be 1/4th and not 1/3rd. In view of the above, loss of dependency comes to Rs.4500 x 12 x 17 = 918000 + 459000 (50%) = 1377000 – 344250 (1/4th) = Rs.10,32,750/-.

Under conventional heads, the claimants shall be entitled to following compensation:-

Loss of consortium to the widow	Rs.1 lakh
Loss of love and affection, care and guidance for the children	1.5 lakh (to be shared equally)
Expenses on funeral/last rites	Rs.25000
Loss of estate	Rs.25,000/-
Loss of love and affection to mother	Rs.50,000/-
Total	**Rs.3,50,000/-**

Medical expenses to the tune of Rs.37,000/- allowed by the Tribunal are affirmed. In view of the above, total compensation comes to Rs.14,19,750/- and additional amount is Rs.5,46,750/- (14,19,750 – 8,73,000) which shall carry interest @ 7.5 per annum from the date of petition till realization.

The additional amount shall be payable to minor children of the deceased in equal ratio except enhanced loss of consortium to the tune of Rs.90,000/- and Rs.50,000/- for loss of love and affection to mother of the deceased. The share of the minor children shall be deposited in FDRs payable on their attaining age of majority or for a period of three years, whichever is later. Interest accruing on the FDRs shall be paid to mother of the minor children for meeting expenses of their education and living.

The appeal and cross objections are disposed of in the aforesaid terms.

11.10.2017 **(REKHA MITTAL)**
ashok/Paramjit **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No