

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

- 1.**

Date of Decision: July 4, 2017
CM No. 10245-CII-2015 in/and
FAO No. 3437 of 2015 (O&M)

Bhagat Singh

.....Appellant

Vs.

HDFC ERGO General Insurance Company Ltd. and others

.....Respondents
- 2.**

CM No. 10648-CII-2015 in/and
FAO No. 3602 of 2015 (O&M)

Bhagat Singh

.....Appellant

Vs.

HDFC ERGO General Insurance Company Ltd. and others

.....Respondents
- 3.**

CM No. 10666-CII-2015 in/and
FAO No. 3607 of 2015 (O&M)

Bhagat Singh

.....Appellant

Vs.

HDFC ERGO General Insurance Company Ltd. and others

.....Respondents
- 4.**

CM No. 12192-CII-2014 in/and
FAO No. 4133-2014 (O&M)

Bimla Devi and others

.....Appellants

vs.

Ram Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. R.S. Hooda, Advocate,
for the applicant (in FAO Nos. 3437, 3602 and 3602 of 2015).
None for the appellant (in FAO No. 4133 of 2014).

Mr. Pardeep Kumar, Advocate,
for respondent no. 1-Insurance co. and
for respondent no. 3-insurance company (in FAO No. 4133 of
2014).

AMOL RATTAN SINGH, J.

- 1. CM No. 10245-CII-2015 in FAO No. 3437 of 2015 (O&M)**
- 2. CM No. 10648-CII-2015 in FAO No. 3602 of 2015 (O&M)**
- 3. CM No. 10666-CII-2015 in FAO No. 3607 of 2015 (O&M)**

These are applications seeking condonation of the delay in filing the appeals that accompany these applications. The appeals in these 3 cases, have been filed by the owner of one of the vehicles involved in the accident in issue in these cases.

1. CM No. 10245-CII-2015 in/and FAO No. 3437 of 2015 (O&M)

In this case, there is a delay of 725 days in filing the accompanying appeal.

2. CM No. 10648-CII-2015 in/and FAO No. 3602 of 2015 (O&M)

In this case, there is a delay of 727 days in filing the accompanying appeal.

3. CM No. 10666-CII-2015 in/and FAO No. 3607 of 2015 (O&M)

In this case, there is a delay of 628 days in filing the accompanying appeal.

Since the reason for the delay in each of these applications is

given to be the same, all three applications seeking condonation of delay are being taken up together.

It has been stated in these applications that after the Award was passed (in two cases on 16.02.2013 and in one case (FAO no.3607 of 2015) on 24.05.2013), holding that the insurance companies of two of the three vehicles involved in the accident could recover the compensation to be paid by them from the insured, i.e. the owners of their respective vehicles, the owner of the dumper vehicle bearing registration no.HR-63A-8266, i.e. respondent no. 3 in these appeals, filed an application seeking reviews of the impugned Awards, on the ground that there was a valid permit obtained by him for operating his vehicle, i.e. the dumper, and as such the Award of the Tribunal granting recovery rights to the insurance company, on the ground that the owner could not produce a valid permit operating the said vehicles, was a wholly erroneous finding by the Tribunal.

Both the applications, i.e. the one seeking review of the Award dated 16.02.2013 and the one seeking review of the Award dated 24.05.2013, were dismissed by the Tribunal on the same date, i.e. 22.01.2014, holding therein that no ground for review was made out, because the Awards were passed on the basis of evidence available on the file and the review sought was not on account of any clerical or typographical error.

It has been further stated in these applications that the present applicant, i.e. Bhagat Singh, owner of the other vehicle bearing registration no.HR-62-1535 (Mahindra Max), had also filed a reply to the aforesaid review applications, stating therein that his vehicle was his personal vehicle, registered as a private vehicle and therefore, there was no requirement for him to seek any kind of permit to ply it.

The applications seeking condonation of delay further state that no appeal has been filed by the insurance companies involved, as regards the quantum of compensation awarded and they have actually paid the claimants in terms thereof.

Therefore, it was during execution proceedings that the issue of recovery came up, in which the applicant filed his reply, stating therein that his Mahindra Max vehicle bearing registration No. HR-62-1535 having been registered as a private vehicle, no route permit was required to operate it.

Thus, it is contended that it was only during the hearing of the execution petition, that the question of whether any appeal had been filed to challenge the finding in the Award, with regard to recovery to be made by the insurance companies, first came up. It is further stated in the applications that the applicant had therefore told his counsel that he was under the belief that the ground taken by him in the execution application against the recovery to be made from him was available to him in the execution application itself, and consequently he had not filed any appeal in this Court against the impugned Awards.

Other than the aforesaid stand, it has also been further contended that the applicant-appellant is a poor person from a rural background, not being well versed with “legal complications”, and hence the delay has occurred in filing the accompanying appeals, and as such it deserves to be condoned, in each appeal.

Mr. Hooda, learned counsel for the applicant in all these three appeals, reiterated the aforesaid contentions made in the applications and then has relied upon various judgments of the Supreme Court as also one of this Court, to submit that where the appellant has not been sleeping over his rights,

the delay should be condoned. He has specifically referred to the judgment of the Supreme Court in N. Balakrishnan vs. M. Krishnamurthy AIR 1998 SC 3222, wherein a delay of 883 days was condoned (though not in an accident claim case but in an appeal arising from a civil suit seeking a declaration of title).

To the same effect, learned counsel has also relied upon another judgment of the Supreme Court in Executive Officer, Antiyur Town Panchayat vs. G. Arumugam (D) by LRs, passed in Civil Appeal No. 8577 of 2014, on 15.05.2015.

He has further referred to a judgment of this Court (this Bench) in Sarita Yadav vs. New India Assurance Company Ltd. and others, passed in FAO No. 190 of 2014, on 10.08.2016, in which a delay of 1168 days was condoned.

Hence, Mr. Hooda submitted that the appellant in the present case having first brought to the notice of the Tribunal itself, in reply to the review application filed by the owner of the other vehicle, and thereafter, having duly filed his reply in the execution application, he cannot be stated to have been sleeping over his rights and consequently, being a person with a rural background, the delay deserves to be condoned.

Opposing the aforesaid contentions, Mr. Pardeep Kumar, learned counsel appearing for the insurance company (respondent no. 1 in these three appeals), submitted that such an inordinate delay in filing three appeals does not deserve to be condoned.

He relied upon a judgment of a co-ordinate bench in Asha Rani and others vs. Makhan Singh and others passed in FAO No. 3440 of 2012 on 26.08.2016, wherein a delay of 810 days in filing an appeal against an

Award of a Motor Accidents Claims Tribunal was not condoned, on the ground that the defect of jurisdiction or other causes of like nature, as had been pleaded in that application seeking condonation of delay, are not covered by Section 14 of the Limitation Act, 1963, and therefore, such a large delay cannot be condoned.

Having considered the arguments of learned counsel for the parties on the issue of condonation of delay in filing these three appeals, first it is to be noticed that the contention that the applicant-appellant is a person with a rural background is not denied by learned counsel for the respondent-insurance company, obviously in view of the fact that even in the memo of parties before the Tribunal, he is shown to be a resident of village Asiaki Gorawas, District Rewari.

In that background, seeing that the applicant has not been wholly sleeping over his rights, but had first agitated the matter before the Tribunal, (though in an application not filed by him but filed by the owner of the other vehicle involved in the accident), and thereafter has been agitating before the Tribunal in execution proceedings also, the delay in filing the accompanying appeals, though the delay is large in each case, in the opinion of this Court deserves to be condoned, but on payment of costs to the respondent-insurance company (respondent no. 1 in these three appeals).

Though the decision of this Court in **Sarita Yadavs'** case (supra), condoning the delay of 1168 days in filling that appeal, would not apply in the present case, the appellant in that case being a widow of an ex-serviceman, who was stated to have died in action, however, the reasons submitted in these applications, accompanied by the affidavits of the applicant-appellant, are seen to be sufficient reasons by this Court, to condone the delay, but on

payment of costs to the respondent-company, as said.

Consequently, the delay of 725 days in filing the **FAO No. 3437 of 2015**, 727 days in filing **FAO No. 3602 of 2015** and 628 days in filing **FAO No. 3607 of 2015**, is hereby condoned, subject to the appellant paying respondent no. 1 in each of these appeals, Rs. 10,000/- as costs.

Costs would be paid during the course of execution proceedings, failing which the learned executing court would treat the accompanying appeals to have been dismissed, and recoveries would be made from the appellant in terms of the impugned Award of the Tribunal.

CM No. 12192-CII-2014 in FAO No. 4133 of 2014

By this application, a delay of 222 days in re-filing the accompanying appeal, filed by the claimants, is sought. The appeal is stated to have been filed within limitation on 20.05.2013, but upon the Registry of this Court having raised some objections on 03.06.2013, it was re-filed after the objections were removed, after a very long delay.

The reason given in the application, accompanied by the affidavit of the first appellant in the accompanying appeal, is that the paper book of the appeal got mixed up with some other brief upon the appeal having been returned by the Registry of this Court and therefore, only after it was located, the appeal was filed on 10.02.2014.

Though in view of the reason given in the application, correctly it should have been accompanied by the affidavit of the learned counsel for the appellants himself, however, the applicants-appellants seen to be the widow, children and parents of a person who died in a motor vehicle accident, I am of the opinion that the delay obviously not being their fault, it deserves to be condoned, even though the reason given in the application has become a

standard excuse.

Still, not ruling out the possibility of the truth of the contention, and for the reason that it is not the fault of the applicants, this application is allowed and the delay of 222 days in re-filing the accompanying appeal is condoned.

Main Cases

1. Three of the four appeals in this bunch, (i.e. FAO Nos. 3437, 3602 of 2015 and FAO no.4133 of 2014), arise out of a single Award of the learned Motor Accidents Claims Tribunal, Gurgaon, dated 16.02.2013, by which MACT Case nos. 94 and 95 were decided together.

FAO No. 3607 of 2015 has been filed challenging the Award passed in MACT Case No. 163, decided on 24.05.2013 by the same Tribunal, with the accident in question in all three claim petitions being the same.

Three of these appeals (FAO nos.3437, 3602 and 3607 of 2015), have been filed by the owner of one of the three vehicles involved in the accident, which took place on 14.03.2012. These appeals essentially challenge the Awards on the ground that 40% of the compensation Awarded would be recoverable by the insurance company of the appellants' vehicle, i.e. respondent no. 1 herein (HDFC ERGO General Insurance Company Ltd.), from the appellant.

The fourth appeal, i.e. FAO no.4133 of 2014, has been filed by the six claimants before the Tribunal in MACT in Case No. 94 of 04.05.2012, which was instituted by them seeking compensation for the death of Satpal alias Radhey Shyam, in the accident in question. These appellants-claimants, in their appeal, seek enhancement of the compensation of Rs. 6,50,000/- awarded to them by the Tribunal.

Hence, that appeal shall be dealt with separately in this judgment, with the issue in the other three appeals to be first dealt with, as regards the liability of the appellant-owner of Mahindra Max vehicle No. HR-62-1535, to reimburse his insurer, i.e. respondent no. 1 in his appeals, to the extent of 40% of the aforesaid compensation.

FAO nos.3437, 3602 and 3607 of 2015

2. Before proceeding further, it would be necessary to state that there were three vehicles involved in the accident, the first being a motor cycle bearing registration no. HR-26-AS-5748, on which the aforesaid Satpal alias Radhey Shyam was sitting pillion along with Vinod Kumar, with the rider (driver) of the motor cycle being one Sonu @ Karambir.

The Mahindra Max vehicle bearing registration no. HR-62-1535 (owned by the aforesaid appellant and driven by respondent no. 11 in FAO No. 3437 of 2015, who is respondent no. 6 in FAO Nos. 3607 and 3602 of 2015, i.e. Ramesh Kumar), is stated to have come from behind the motor cycle, allegedly at a high speed, driven in a rash and negligent manner, and hit the motor cycle.

Upon the riders all having fallen from the motor-cycle, one 'dumper' bearing registration No. HR-63-A-8266, is stated to have come from behind, driven in a rash and negligent manner, which ran over the motor-cycle and Satpal alias Radhey Shyam, resulting in his death. The other two persons on the motor cycle, i.e. Sonu and Vinod Kumar, are stated to have sustained multiple injuries.

Eventually the learned Tribunal found the aforesaid Sonu negligent in driving to the extent of 20%, with the drivers of the Mahindra Max vehicle and the dumper being guilty to the extent of 40% each.

Accordingly, the compensation to be paid to the claimants in the claim petitions was ordered to be apportioned between the three persons found negligent in driving.

The insurance companies of the Mahindra Max vehicle and the dumper vehicle were directed to initially pay the compensation amount to the claimants but thereafter the said companies were given liberty to recover the compensation paid by each of them from the present appellant (respondent no. 2 before the Tribunal), as also respondent no. 3 herein, i.e. owner of the dumper, who was respondent no. 5 before the Tribunal.

3. It is necessary to state here that the 3rd appeal by the same person, i.e. the owner of the Mahindra Max vehicle No. HR-62-1535, arises out of a separate Award, as already noticed, pertaining to the same accident, that Award being in respect of the injuries suffered by the aforesaid Sonu @ Karambir, who was riding (driving) the motor cycle against which the Mahindra Max vehicle is stated to have come and struck.

It is also to be noticed at this stage itself that the said Sonu @ Karambir had impleaded the drivers and insurers of the Mahindra Max vehicle as also the dumper vehicle, as respondents.

However, none of the claimant had impleaded the owner and driver of the motor cycle, i.e. Sonu @ Karambir, in their claim petitions, i.e. MACT cases nos.94 and 95, the latter having been filed by the third motorcycle rider (pillion) Vinod Kumar.

4. As regards the merits of the contention raised in these appeals, to the effect that the Tribunal wholly erred in awarding recovery rights to respondent no. 1 herein, i.e. the insurance company, on the ground that no route permit allowing the vehicle of the appellant to ply on the road was

produced, even learned counsel for the respondent-insurance company has very fairly admitted that the said vehicle being less than 30,000 kgs., registered as a private vehicle, no route permit would be required to operate it, other than the registration certificate of the vehicle itself.

Hence, as regards the merit of the contention raised in these appeals, that not being found to be factually incorrect by the first respondent, the appeals are allowed and the impugned Awards of the learned Tribunal, dated 15.02.2013 and 24.05.2013, are modified to the extent that the compensation paid or to be paid to the claimants before the Tribunal, either in terms of the Award of the Tribunal itself or as regards any enhancement subsequently ordered by this Court, would be payable by respondent no. 1-insurance company, there being no dispute to the fact that the driver of the vehicle owned by the appellant was also carrying a valid driving licence on the date of the accident and no other terms of the insurance policy are shown before this Court to have been violated, with the insurance company in any case not being in appeal against any finding of the Tribunal qua either of the two Awards.

The appeals are, therefore, allowed as above.

5. However, with the appellant having been burdened with costs of Rs. 10,000/- for the long delay in filing the appeals, he cannot be awarded costs of the appeal, even though the appeals have been allowed in his favour.

FAO No. 4133 of 2014

6. The essential facts of the cause of the accident already having been given, it is only considered necessary to further notice that the reasons given by the learned Tribunal for holding the rider of the motor cycle (Sonu @ Karambir), as also the two drivers of the Mahendra Max vehicle and the

dumper vehicle, negligent in the ratio of 20:40:40, is that as regards the aforesaid Sonu @ Karambnir, he was found to be carrying two persons riding pillion behind him, on a two wheeler vehicle, and therefore he was held guilty of negligence to the extent of 20%. However, the Mahindra Max vehicle having been found to come and hit the motor cycle from behind and the dumper having run over the motor cycle thereby causing the death of Satpal @ Radhey Shyam and injuries to the aforesaid Sonu and Vinod Kumar, the drivers of those two vehicles were found equally guilty to the extent of 40% each in having causing the accident.

No appeal filed by the insurance company or by the aforesaid Sonu, against the finding of negligence, has been brought to the notice of this Court and in fact even in the accompanying appeals filed by the owner of the Mahindra vehicle, the finding on negligence has not been challenged.

Yet, in the opinion of this Court, the pillion riders on the motor cycle would also be guilty in 'triple riding' on a two wheeler motor cycle, along with the person 'driving' the vehicle, which allows only two persons to be riding on it.

Thus, in the opinion of this Court, as regards the 20% negligence of the aforesaid Sonu, some negligence within that ratio would also have to be attributed for the death of Satpal @ Radhey Shyam, to the deceased himself if this Court comes to a conclusion that the compensation awarded by the Tribunal, of Rs. 6,50,000/-, to the appellants in this appeal, is inadequate.

7. In the claim petition filed by the present appellants, it was contended that the deceased Satpal @ Radhey Shyam was 39 years of age and that he was an Electrician running a shop under the name of M/s Saini Electric Works near Hanuman Mandir, Farrukhnagar, Gurgaon. He was stated to have

been earning Rs. 20,000/- per month from his shop, with the appellants-claimants being wholly dependent on him, they being his wife, minor children and parents.

It was further contended that Rs. 50,000/- was spent upon the transportation and last rites of the deceased and consequently, a total compensation of Rs. 20 lakhs was sought.

8. (The claimants in the other two petitions, i.e. injured Vinod Kumar and Sonu @ Karambir not being in appeal, naturally this Court is not required to go into the adequacy of compensation awarded to those claimants in their claim petitions).

9. As regards the present appellants, on the issue of compensation, the stand of the respondents was that Rs. 50,000/- could not have been spent on the treatment and last rites of the deceased and that he was not earning Rs. 20,000/- per month as claimed and therefore, the entire claim was highly exaggerated.

This is of course other than the main objections taken by the insurance company with regard to the negligence in driving not being that of the driver of the vehicle insured by it; but that issue is not being gone into, the insurance company not being in appeal and the owner of the vehicle not having challenged the issue of negligence in his appeals, as already observed.

In any case, on a perusal of the judgment of the impugned Award, I find no reason to reverse the finding on negligence.

10. As regards the age of the deceased Satpal alias Radhey Shyam, as per the testimony of the first appellant herein, i.e. the claimant Bimla Devi, as PW-5, she is found to have testified that he was 39 years of age; however, in the report of the investigator of the insurance company, Ex. RY, he was found

to be 42 years of age. The learned Tribunal accepted his age to be between 41 to 45 years at the time of his death.

11. As regards the income of the deceased, it was found that though again appellant Bimla Devi had testified to the effect that he was earning of Rs. 20,000/- per month, no record whatsoever, even in the form of any account books was produced, and consequently, his income was taken to be Rs. 5,000/- per month by the Tribunal.

Seeing that there were six dependents of the deceased, i.e. the six claimants (appellants herein), the deceased was taken to have spent $\frac{1}{4}$ th of his income on himself, there thus being a loss of dependent income to the extent of Rs.3,750/- per month, or Rs. 45,000/- per annum.

12. Having held the age of the deceased to be between 41 to 45 years, a multiplier of 14 was applied to the aforesaid income by the Tribunal, citing the judgment in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another** (2009) 6 SCC 121.

Hence, the total loss of income to the claimants was held to be Rs. 6,30,000/-.

A sum of Rs. 10,000/- was awarded to the first appellant towards loss of consortium and Rs. 5,000/- was awarded as compensation for the expenses on the last rites of the deceased. Thus, the total compensation awarded was Rs. 6,50,000/-, apportioned between the three persons found negligent in driving their respective vehicles.

Interest @ 7.5% per annum was also awarded on the compensation payable by the Tribunal, running from the date of the filing of the claim petition till the date of realization of the amount.

The first appellant herein, i.e. the widow, was held entitled to Rs.

1,50,000/- out of the total compensation, with the three minor children held entitled to Rs. 1,25,000/- each and the remaining compensation to be divided equally between the parents of the deceased, i.e. appellants no. 4 and 6 herein.

13. On the date that judgment was reserved in this case, learned counsel for the appellants was not present but the appeal was taken up for hearing, in view of the fact that it was to be heard along with the other three appeals and learned counsel for the appellants had been present on the date prior to that on 18.10.2016, and therefore, was aware that the matter would be taken up for final hearing along with the other three appeals.

Consequently, the stand of the appellants in the grounds of appeal has has to be seen to consider as to whether the compensation awarded was adequate or not.

It has first been contended in the appeal that with the drivers of the other two vehicles involved not having uttered a word regarding the negligence of the driver of the motor-cycle, the Tribunal erred in holding the motor cycle rider, i.e. Karambir @ Sonu, to be guilty to the extent of 20% in causing the accident.

It has next been contended that a multiplier of 15 not 14 should have been awarded, as the age of the deceased was actually 39 years as was stated in the claim petition.

14. The next contention raised in the grounds of the appeal is that the income of the deceased was taken to be Rs. 5,000/- wholly erroneously by the Tribunal.

Yet further, it has been contended that Rs. 1,00,000/- should have been awarded by way of loss of consortium to the first appellant and adequate compensation to the minor children of the deceased on account of the loss of

love and affection of their father.

Lastly, it has been contended that interest @ 9% per annum should have been awarded instead of 7.5% per annum.

15. In response to the aforesaid contentions raised in the grounds of appeal, Mr. Pradeep Kumar, learned counsel appearing for the respondent-insurance company, i.e. respondent no. 1, submitted that there being no proof of income of the deceased, the Tribunal correctly took his income to be Rs. 5,000/- per month and accordingly calculated it in terms of the settled law.

Though learned counsel also argued on the issue that compensation awarded for loss of consortium, last rites of the deceased and loss of estate was adequate compensation, upon query by this Court as to whether the said amount were adequate in terms of settled law, he could not factually refute the settled position.

16. Having considered the rival contentions, coming first to the issue of age of the deceased, it is seen that in the post mortem report, Ex. P-10 before the learned Tribunal, he is shown to have been 25 years of age. However, it was the specific contention in the claim petition itself that he was 39 years of age and obviously he could not have been 25 years old, with the age of his children being given as 15 years, 13 years and 10 years, even before the learned Tribunal, as can be seen from the memo of parties before that forum.

Whether he was 39 years old or 41 to 45 years old, as has been held by the Tribunal, is to be determined either on the basis of evidence led in that regard by the appellants, which is not seen to be anything other than the testimony of appellant-claimant Bimla Devi, or from the investigation carried out by the respondent-insurance company, as per the report of the investigator,

Ex. RY.

The said report simply states that as per the claimants the age of the deceased was 42 years, whereas in the post mortem report he was stated to be 25 years of age. Thus, no specific finding on the basis of any documentary evidence was given in the aforesaid report either.

Therefore, seeing that the age of the first appellant is shown to be 38 years, with the eldest child being 15 years old, no interference is being made in the finding of the Tribunal in that regard, that deceased Satpal was between 41 to 45 years of age.

17. Coming then to the issue of his income.

Even in the grounds of appeal, nothing specific has been stated as to how it was proved that the income of the deceased was actually Rs. 20,000/- per month, with not even the account books of the shop stated to be run by him, led by way of evidence.

In fact a perusal of the documentary evidence led, from the records of the Tribunal, shows that not even a bill/cash memo etc. issued by the shop, is on record. Hence, with the minimum wages notified by the Haryana Government for the period in question, i.e. March 2012, being Rs. 4,847.17 for an unskilled daily wager, and with no proof of the educational level of the deceased, I find myself unable to interfere with the finding that he was earning Rs. 5,000/- per month.

18. Yet, it has been held in Santosh Devi vs. National Insurance Company Limited (2012) 6 SCC 421, that for a person with a low income it would not be possible for him to spend a large amount on himself.

Hence, on account of the fact that the deceased had six dependents, it is considered appropriate in this case to hold that he could have

spent only $1/6^{\text{th}}$ of the aforesaid income on himself per month.

In this context it needs to be noticed that though the father of the deceased is not to be taken as a dependent, in the absence of specific evidence thereto, in the present case, the father having been shown to be 65 years of age, which cannot be doubted, the deceased himself having been held to be 41 to 45 years of age, this Court would not hesitate in holding that the father was also dependent on the income of the deceased son.

Thus, taking that the deceased would have spent about $1/6^{\text{th}}$ of the aforesaid income, i.e. $1/6^{\text{th}}$ of the annual income of Rs. 60,000/- (@ Rs. 5,000/- per month) on himself, the annual dependency of the appellants is taken to be Rs. 50,000/- and not Rs. 45,000/- as taken by the Tribunal.

This Court having accepted the age of the deceased to be the same as was assessed by the Tribunal, to that amount a multiplier of 14 is applied, thereby coming to a total loss of income of Rs. 7,00,000/-.

19. I also agree with what has been contended in the grounds of appeal, to the effect that the amount awarded towards loss of consortium as also towards the last rites of the deceased, is wholly inadequate in terms of law settled by now. [Reference **Vimal Kanwar vs. Kishore Dan and others** (2013) 7 SCC 476 and subsequent judgments]. Consequently, it is held that appellant no. 1, i.e. the widow of the deceased, is entitled to Rs. 1,00,000/- towards the loss of consortium and Rs. 25,000/- towards the funeral expenses and last rites of the deceased. As regards compensation for the loss of love and affection of their father, to appellants no. 2, 3 and 4, who are shown to be 15 years, 13 years and 10 years old respectively, as already noticed, Rs. 75,000/- is awarded to appellant no. 2, i.e. the 15 year old son of the deceased, whereas Rs. 1,00,000/- each is awarded to appellant nos. 3 and 4, i.e. the 13

and 10 year old daughters of the deceased.

As regards the parents of the deceased, I see no reason why they are not be awarded compensation for the loss of love and affection of their son and consequently, Rs. 50,000/- each is awarded to them under that head.

20. Thus, the total compensation awarded now is as follows:-

(i)	Total loss of dependent income (Rs. 50,000/- x 12= Rs. 7,00,000/-)	Rs. 7,00,000/-
(ii)	For loss of consortium to appellant no. 1:	Rs. 1,00,000/-
(iii)	For funeral expenses and last rites, to appellant no.1:	Rs. 25,000/-
(iv)	For loss of love and affection, to appellant no., 2:	Rs. 75,000/-
(v)	For loss of love and affection to appellant nos. 3 and 4 (@ Rs. 1,00,000/- each)	Rs. 2,00,000/-
(vi)	For loss of love and affection to appellants no. 5 and 6 (Rs. 50,000/- each)	Rs. 1,00,000/-
	Total	Rs. 12,00,000/-

The compensation awarded by this Court is therefore Rs.5,50,000/- more than that which was awarded by the Tribunal.

21. As regards the next contention in the grounds of appeal, on the interest awarded by the Tribunal, rates of interest having dropped, I find 7.5% to be reasonable interest and in fact on enhanced compensation, this Court has been generally awarding only 4 to 6% interest per annum (on the enhanced amount), running from the date of the Award till the date of realization of the enhanced amount.

Accordingly, in the present case also, the compensation awarded would carry interest @ 7.5% per annum from the date of filing of the claim petition till the date of the Award and @ 6% per annum from that date till the date of realisation of the compensation by the appellants.

The appellants would also be entitled to costs of the appeal for an

amount of Rs. 5,000/-.

22. The appeals are thus all allowed as above.

July 4, 2017
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes