

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

-.-

Date of decision: 15.09.2017

FAO 5911 of 2015

Monika and others *Appellants*
Versus
Jai Singh and others *Respondents*

FAO 6200 of 2015

Arun Sindhu and others *Appellants*
Versus
Jai Singh and others *Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sanjeev Kodan, Advocate
for the appellants

Mr. Vinod Gupta, Advocate
for the insurance company

-.-

Rekha Mittal, J. (Oral)

This order will dispose of aforesaid appeals as these have emerged out of the same award dated 22.04.2015 passed by the Motor Accidents Claims Tribunal, Jhajjar (hereinafter to be referred as 'the Tribunal) whereby compensation has been awarded in regard to death of Amit Sindhu and Sunita Kumari in a motor vehicular accident that took place on 01.02.2013.

FAO No. 5911 of 2015

Counsel for the appellants/claimants would urge that the Tribunal has not awarded any compensation for loss of love and affection to minor children of the deceased.

Counsel representing the insurance company has submitted that though no compensation has been awarded for loss of love and affection to children but otherwise the Tribunal has granted a sum of Rs.48,68,760.00, payable with interest.

I have heard counsel for the parties and perused the paper book particularly the award impugned.

Amit Sindhu left behind two minor children namely Arnav and Kalika. The children have been deprived of love, affection, care, guidance and security of their father at a young age. They shall be entitled to an amount of Rs.1,50,000.00 (to be shared equally) for loss of love, affection, care and protection of their father payable with interest at the rate of 7.5% per annum from the date of petition till realization. The share of each child shall be deposited in Fixed Deposit Receipts for a period of three years or till they attain the age of majority, whichever is later.

No other point has been raised.

The appeal is partly allowed in the aforesaid terms.

FAO No. 6200 of 2015

The claimants are in appeal seeking enhancement of compensation in regard to death of Sunita Kumari in a motor vehicular accident that took place on 01.02.2013.

Indisputably, Sunita Kumari was working as Hindi Teacher in Government High School, Jind at salary of Rs.39,466/- per month. Her date of birth is 25.12.1962, therefore, she was more than 50 years at the time of

occurrence. The Tribunal has awarded compensation to the tune of Rs.2,00,000.00 on account of love and affection and mental shock.

Counsel for the appellants would urge that even if it is accepted that claimants were not dependent upon earning of the deceased, they being Class I heirs of the deceased are entitled to compensation qua loss of estate. It is further argued that at least half of the salary of deceased by adopting an appropriate multiplier may be computed for assessing loss of estate. In support of his contention, he has referred to judgments of this Court ***Ikattar Singh and another v. Dalvir Singh and others, 2016 (2) Law Herald 1851*** and ***National Insurance Company Limited v. Jashanjeet Singh and others, 2016 (2) R.C.R. (Civil) 542***. In addition, the claimants are entitled to get adequate compensation under conventional heads.

Counsel representing the insurance Company, on the contrary, would urge that claimants are not entitled to get compensation even qua loss of estate on the basis of 50% salary of the deceased. It is further argued that as the deceased would have retired on attaining the age of 58 years, multiplier up to the age of 58 may be allowed.

The deceased was drawing salary of Rs.39,466.00 per month. Her husband is not one of the claimants in the case. It is not clear on record that husband of the deceased was alive at the time of unfortunate occurrence. The deceased was working as a teacher in Government High School, Jind. She would have been spending half of the day in her school and remaining half at her house to look after day to day domestic affairs. Under the circumstances, it is in the fitness of things that if half of the salary of deceased is taken into account for assessing loss to estate. By taking into consideration an amount of Rs.19,000.00 per month for assessing loss to

estate and applying multiplier of 8 on the basis of retirement age of the deceased, loss to estate comes to Rs.18,24,000.00 (19,000 x 12 x 8). A sum of Rs.2,00,000.00 awarded by the Tribunal is affirmed. The claimants shall be entitled to Rs.25,000.00 for funeral expenses. The total compensation comes to Rs.20,49,000.00 (18,24,000.00 + 2,00,000 + 25,000) and additional amount is Rs.18,49,000.00 (20,49,000-2,00,000) which shall be shared by claimants Arun Sindhu and Monika and others in the ratio of 50:50. The amount falling to share of children shall be deposited in Fixed Deposit Receipts for a period of three years or till they attain the age of majority, whichever is later.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

15.09.2017
mohan bimbra

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