

LPA no. 322 of 2015 (O&M)
and connected case . 1

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

1. LPA no. 322 of 2015 (O&M)

Punjab State Power Corporation Ltd. And others

....Appellant(s)

Versus

Smt. Thangmani and others

...Respondent(s)

2. LPA no. 699 of 2016 (O&M)

Smt. Thangmani and others

....Appellant(s)

Versus

State of Punjab and others

...Respondent(s)

Date of Decision : 01.02.2017

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MRS JUSTICE SNEH PRASHAR**

**Present : Mr.Parminder Singh, Advocate for appellants
in LPA no. 322 of 2015 and
for respondents in LPA no. 699 of 2016**

**Mr. Vaneet Soni and
Mr. Bhim Singh, Advocates for appellants
in LPA no. 699 of 2016 and
for respondents in LPA no. 322 of 2015**

MAHESH GROVER, J.(ORAL)

This order will dispose of two Letters Patent Appeals bearing
nos. 322 of 2015 and 699 of 2016.

Both appeals are directed against order 26.11.2014 whereby

learned Single Judge while awarding compensation to the claimants on

account of the negligence of the appellants (in LPA no. 322 of 2015) granted total compensation of Rs. 23,56,000/-. The learned Single Judge while arriving at the said figure adopted the following reasoning and calculations:-

“The income of the deceased, as stated in paragan 4 of the petition, has not been denied. He was working in Punjab Small Scale Industries on adhoc basis and was drawing salary of Rs.7800/- per month. His total income, including extra charges, was Rs.11,000/- per month. At the time of death, he was 35 years of age. Hence, while taking his salary as Rs.11,000/- per month, the compensation is assessed as per following schedule:-

Sr. No.	Heads	Calculation
(i)	Salary	Rs.11,000 per month
(ii)	50% of (i) above to be added as future prospects =	(Rs.11,000 + Rs.5500) = Rs.16,500
(iii)	About 1/4th of (ii) deducted as personal expenses of the deceased =	Rs.16,500 – Rs.4125 = Rs.12,375 per month
(iv)	Compensation after multiplier of 15 is applied =	Rs.12375 x 12 x 15 = Rs.19,30,500
(v)	Loss of consortium to wife=	Rs.1,00,000
(vi)	Loss of care and guidance for minor children =	Rs.1,00,000 each (Rs.3,00,000)
(vii)	Funeral charges	Rs.25,000
	Total compensation awarded	Rs.23,55,500 (Rs. 23,56,000)

However, since there was an error in computation of the aforesaid the same was corrected on an application being filed by legal

representatives of the deceased as follows:-

“For the reasons mentioned in the application, the same is allowed and the following modification is done accordingly in order dated 26.11.2014:-

Sr.No.	Heads	Calculations
(i)	Salary	Rs.11,000/- per month
(ii)	50% of (i) above to be added as future prospects=	(Rs.11000+Rs.5500=Rs.16500/-
(iii)	About 1/4th of (ii) deducted as personal expenses of the deceased=	Rs.16500- Rs.4125=Rs.12,375 per month
(iv)	Compensation after multiplier of 15 is applied	Rs.12375 X 12 X 15= Rs.22,27,500/-
(v)	Loss of consortium to wife	Rs.1,00,000
(vi)	Loss of care and guidance for minor children =	Rs. 1,00,000 each (Rs.3,00,000/-)
(vii)	Funeral charges	Rs.25,000/-
(viii)	Total Compensation awarded	Rs.26,52,500/-

Resultantly, the petitioners are entitled to a total compensation of Rs.26,52,500/- which is to be given to the petitioners by the respondents alongwith interest at the rate of 9% per annum w.e.f 1.12.2012.”

In appeals issue of negligence has not been contested. The only dispute centred around is qua the quantum of compensation granted. It has been contended by the learned counsel for the appellants (in LPA no. 322 of 2015) that the income of the deceased was wrongly taken at Rs.11,000/- per month whereas it was Rs.7,820/- which is also borne out from the affidavit which has come on record subsequently. The claimants had pleaded that the deceased was admissible to overtime charges and was drawing Rs. 11,000/-.

However, there is no document on record to verify such a claim. Therefore,

we are of the opinion that the learned Single Judge fell in error while accepting this plea of the claimants. We would thus take the income of the deceased as Rs.8,000/- per month by rounding it off for the purposes of calculations and scaled down the compensation appropriately.

Learned counsel for the appellants (in LPA no.322 of 2015) contends that even the multiplier has been wrongly applied as ration card shows the age of the deceased as 47 years whereas learned Single Judge had proceeded to assume his age as 35 years. We find that age was ascertained on the basis of service record of the deceased and thus would also tend to lean towards its authenticity as this would be reliable piece of material to ascertain the age and even if there is a slight variation in the exact age, the multiplier would still remain the same.

Similarly, learned counsel for the appellants contends that amount on account of care and guidance of the minor children should be Rs.1 lac for all children rather than Rs.1 lac for each child, with which we disagree. The deceased is survived by 3 daughters who need to be guided through life in education and other matters such as matrimony and thus do not find this amount to be exorbitant

Accordingly, except for the variation that may result from the scaling down of the income of the deceased, no other parameters ascertained by the learned Single Judge need to be interfered with. Taking the income as Rs. 8,000/- and applying the other factors the compensation would now work out at Rs.20,45,000/- as noticed below. Rest of the judgment of the learned Single Judge is affirmed with no variation.

Sr. No.	Heads	Calculation
(i)	Salary	Rs.8,000 per month
(ii)	50% of (i) above to be added as future prospects =	(Rs.8,000 + Rs.4000) = Rs.12,000
(iii)	About 1/4th of (ii) deducted as personal expenses of the deceased =	Rs.12000-3000 = Rs.9,000 per month
(iv)	Compensation after multiplier of 15 is applied =	Rs.9000 x 12 x 15 = Rs.1,62,0000
(v)	Loss of consortium to wife=	Rs.1,00,000
(vi)	Loss of care and guidance for minor children =	Rs.1,00,000 each (Rs.3,00,000)
(vii)	Funeral charges	Rs.25,000
	Total compensation awarded	Rs.20,45,000 (Rs. 20,45,000)

Both appeals stand disposed of in above terms.

CM no. 946 LPA of 2016 in LPA no. 322 of 2015

There is no need to comment on this application and assuming this fact to be correct the future prospects were already taken care and thus it would be inconsequential to the cause of the applicants

CM stands disposed of.

(Mahesh Grover)
Judge

01.02.2017
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No

(Sneh Prashar)
Judge