

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 5.4.2018

FAO No. 2964 of 2016(O&M)

Amit Sharma and others

---Appellants

vs.

Jagga Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Ekta Thakur, Advocate
for the appellants in FAO-2964 of 2016
Mr. Neeraj Khanna, Advocate
for respondents No. 2 and 3 in FAO- 2964 of 2016
Mr. Deepam Raghava, Advocate for
Mr. S.K.Aggarwal, Advocate
for respondent No. 4 in FAO-2964 of 2016

FAO No. 3080 of 2016(O&M)

Kamla Devi

---Appellant

vs.

Amit Sharma and others

---Respondents

Present: Mr. Deepam Raghava, Advocate for
Mr. S.K.Aggarwal, Advocate
for the appellant
Ms. Ekta Thakur, Advocate
for respondents No. 1, 5 and 6
Mr. Neeraj Khanna, Advocate
for respondents No. 3 and 4

FAO No. 4372 of 2016(O&M)

Himachal Road Transport Corporation

---Appellant

vs.

Amit Sharma and others**---Respondents**

Present: Mr. Neeraj Khanna, Advocate
for the appellant
Ms. Ekta Thakur, Advocate
for respondents No. 1 to 3
Mr. Deepam Raghava, Advocate for
Mr. S.K.Aggarwal, Advocate
for respondent No. 4

Rekha Mittal, J.

This order will dispose of FAO Nos. 2964, 3080 and 4372 of 2016 as these have emerged out of the same award dated 11.4.2016 passed by the Motor Accidents Claims Tribunal, Chandigarh (in short “the Tribunal”) whereby compensation has been awarded on account of death of Nidhi Sharma in a motor vehicular accident that took place on 3.7.2015.

FAO No. 2964 of 2016 has been filed by claimants Amit Sharma and his parents (husband and parents-in-law of Nidhi Sharma); FAO No. 3080 of 2016 by Ms. Kamla Devi, mother of the deceased whereas FAO No. 4372 of 2016 has been filed by Himachal Road Transport Corporation, owner of offending bus No. HP-72-5697.

FAO Nos. 2964, 3080 and 4372 of 2016

The Tribunal has awarded compensation of Rs. 73,99,844/-, detailed hereunder:-

Monthly income of the deceased	Rs. 35,661/-
Addition in income for future prospects	50%
Deduction for personal expenses	1/3 rd
Multiplier	17
Loss of dependency	Rs. 72,74,844/-
Loss of consortium	Rs. 1,00,000/-
Expenses on funeral and last rites	Rs. 25,000/-

Compensation has been apportioned between the husband and

mother of the deceased in the ratio 70:30.

Amit Sharma and others shall be referred to as “the claimants”, Kamla Devi as “the appellant” and Himachal Road Transport Corporation as “the Corporation” for the sake of convenience.

Counsel for the claimants would argue that Usha Sharma and Surinder Mohan Sharma, parents-in-law of the deceased are also entitled to get compensation qua death of their daughter-in-law. In support of her contention, she has referred to judgment of this Court **Shrimati Krishana Devi and others vs. Sh. Dilbar Singh and another, 2013(7) RCR (Civil) 1073**. It is further argued that as the deceased was residing in her matrimonial home, mother of the deceased is not entitled to any compensation. Counsel would inform that Kamla Devi in her cross examination has stated about the custom prevalent in her family and as per that custom, parents do not even drink water at the house of their daughter what to talk of getting any financial assistance, thus, the Tribunal has grossly erred by allowing compensation to the extent of 30% to Kamla Devi.

Counsel representing the appellant would argue that the claimants are not entitled to get compensation as the deceased suffered physical and mental torture, humiliation and harassment at the hands of her husband and his parents. According to counsel, Kamla Devi has got no objection if compensation is not paid to her and the entire amount found payable qua death of Nidhi Sharma is donated to a religious or charitable institution or utilized for a social cause.

Counsel for the Corporation has echoed the arguments advanced by counsel for the appellant that the claimants are not entitled to compensation as relations between Amit Sharma and the deceased were not cordial. To assail quantum of compensation assessed by the Tribunal, it is argued that income tax is liable to be deducted and compensation allowed under conventional heads needs to be restricted to Rs. 70,000/- in the light of latest judgment of Hon'ble the Supreme Court **National Insurance Company Limited vs. Pranay Sethi and**

others 2017 SCC 1270.

I have heard counsel for the parties, perused the paper books particularly the award.

Indisputably, Nidhi Sharma had been residing in her matrimonial home though occasionally or may be frequently, she had been visiting her parental house in Maloya UT Chandigarh. There is no denial that Nidhi Sharma or her parents neither made any complaint to any public authority with regard to alleged behaviour of Amit Sharma and his parents nor any litigation was initiated in this regard. There is no satisfactory much less cogent and convincing materials on record that Nidhi Sharma had marital disharmony or she was subject to torture, humiliation, harassment etc. at the behest of the claimants. In the given scenario, claimants shall be entitled to get compensation for death of Nidhi Sharma. Had Nidhi Sharma remained alive, she would have rendered service to her mother in the hour of need. In the given scenario, compensation found to be payable qua death of Nidhi Sharma would be shared by the claimants and appellant to the extent of 70% by husband of the deceased and remaining 30% to the extent of 10% each by parents-in-law and mother of the deceased.

This brings the court to quantum of compensation assessed by the Tribunal. The Tribunal has assessed income of the deceased at Rs. 35,661/- per month as she was working in a Government dispensary. After deducting liability to pay income tax of Rs. 15,793/-, annual loss of dependency is calculated at Rs. 4,12,139/-(4,27,932-15,793). Addition in income for future prospects, deduction for personal expenses and multiplier adopted by the Tribunal are affirmed. In this manner, loss of dependency comes to Rs.70,06,363/- i.e. $\text{Rs. } 4,12,139 \times 17 = 70,06,363 + 35,03,181(50\%) = 1,05,09,544 - 35,03,181$.

Under conventional heads, compensation allowed by the Tribunal is modified to the effect that claimants shall be entitled to Rs. 70,000/- in the light of

Pranay Sethi and others' case (supra), detailed hereunder:-

Loss of consortium to husband	Rs. 40,000/-
Expenses on funeral	Rs. 15,000/-
Loss of estate	Rs. 15,000/-

Total compensation is Rs. 70,76,363/- and compensation awarded by the Tribunal is reduced to the extent of Rs. 3,23,482/-(73,99,844- 70,76,362).

For the foregoing reasons, the appeals stand disposed of in the aforesaid terms. No order as to costs.

(Rekha Mittal)

Judge

5.4.2018

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Whether speaking/reasoned: Yes

Whether reportable : Yes/No