In the High Court of Punjab and Haryana, at Chandigarh

F.A.O. No. 211 of 2005 (O&M)

Date of Decision: 21.04.2023

Gulshan Bhatia and Others

... Appellant(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. B.S.Bedi, Advocate
for the appellant(s).

Mr. Jaspal Singh Pannu, Assistant Advocate General,
Haryana, for the respondent No.1.

Mr. Jatinder Nagpal, Advocate
for the respondent No.2(A) and (B).

None for the Insurance Company.

Anil Kshetarpal, J.

CM-11485-CII-2022

1. For the reasons stated in the application, the same is allowed. The delay of 20 days in filing the application for restoration of the appeal stands condoned.

CM-11168-CII-2022

2. For the reasons stated in the application, the same is allowed. The appeal is restored at its original number. With the consent of the learned counsel representing the parties, the appeal is taken up on the Board for hearing.

FAO-211-2015

3. This appeal has been filed challenging the correctness of the

award, passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, by the Motor Accidents Claims Tribunal at Chandigarh (hereinafter referred to as "the Tribunal") on 01.11.2004 with regard to the assessment of the amount of compensation. In other words, the involvement of the bus and the truck and the correctness of the finding with regard to rash and negligent driving of the truck driver are in dispute.

4. A young boy of 25 years, namely Chandan Bhatia had lost his precious life in an automobile accident which took place on 23.09.2000 at 2.00 A.M. Late Chandan Bhatia has left behind his widow and two minor children apart from his aged mother. The income of the deceased has been assessed on the basis of the income-tax return (Ex.P4) filed by him with respect to the period which was immediately before his death. The learned counsel representing the claimants has informed the Court that appellant No.2, namely Meena Bhatia (mother of the deceased) has died.

5. The learned counsel representing the appellants contends that the Court has erred in assessing the quantum of compensation on three different grounds:-

i) The muiltiplier of 17 has been applied while assessing the compensation, whereas, keeping in view the age of the deceased and the law enunciated in ***Sarla Verma (Smt.) & Others v. Delhi Transport Corporation & Another (2009) 6 SCC 121***, the appropriate multiplier of 18 is applicable.

ii) Keeping in view the fact that the deceased left behind as many as four dependents even if the father is excluded, still the appropriate cut would be 1/4th towards self-expenses and not 1/3rd as applied by the Tribunal.

iii) The Tribunal has awarded ₹2,000/- as funeral expenses without awarding any further amount under the non-conventional heads, namely loss of consortium and loss of estate.

6. The learned counsel representing the insurance company is not present despite the completion of service.

7. Keeping in view the age of the deceased, the multiplier of 17 is required to be modified to 18 in view the law enunciated in ***Sarla Verma's case*** *(supra)*.

8. As far as deduction on account of the personal expenses, there is substance in the arguments of the learned counsel representing the appellants because the deceased left behind as many as four dependents even if the father of the deceased is excluded. Thus, there were in total five members including the deceased. Hence, it is not expected that the deceased spent more than 1/4th of income for his expenses.

9. As far as the award of the amount under the unconventional heads, namely loss of consortium, loss of estate and funeral expenses, the five Judges Bench of the Supreme Court in ***National Insurance Company Limited v. Pranay Sethi & Others (2017) 16 SCC 680***, has settled the law. Moreover, in the subsequent judgments of the Supreme Court in ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and Others 2018(4) RCR (Civil) 333***, ***New India Assurance Company Limited v. Somwati and Others (Civil Appeal No. 3093 of 2020, decided on 07.09.2020*** and ***United India Insurance Company Limited v. Satinder Kaur alias Satwinder Kaur and others (2020) SCConline 410***, it has been held that each of the claimant shall be entitled to the loss of consortium at

the rate of ₹40,000/- per person.

10. Keeping in view the aforesaid facts, the present appeal is allowed. The enhanced amount of compensation is worked out as under:-

Sr. No.	**Heads under which the amount awarded**	**Amount awarded by the Tribunal (In ₹)**	**Amount awarded by the High Court (In ₹)**
A)	Annual Income	1,82,000.00	1,82,000.00
B)	Future Prospects	NIL	72,800.00 (40% of the income assessed)
C)	Deduction on account of his own expenses.	1,21,334 (1,82,000 – 60,666 i.e. 1/3rd of the monthly income)	1,91,100.00 (2,54,800-63,700 i.e. 1/4th of the monthly income)
D)	Amount assessed after applying Multiplier	20,62,678.00 (1,21,334 x 17)	34,39,800.00 (1,91,100 x 18)
E)	Funeral Expenses	2,000.00	15,000.00
F)	Loss of Estate	NIL	15,000.00
G)	Loss of Consortium to be awarded @ ₹40,000/- to all the four claimants.	NIL	2,00,000.00 (40,000x5)
H)	Total compensation awarded	20,64,678.00	36,69,800.00
I)	**Amount of compensation enhanced by this Court**	**16,05,122/-** (**36,69,800 – 20,64,678**)	

11. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

April 21, 2023
"DK"

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