

FAO No. 6094 of 2010(O&M)

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

FAO No. 6094 of 2010(O&M)

Date of decision :24.04.2014

Charanjit Kaur and others

..... Appellants

Versus

**M/s Radha Rani Rice and General Mills
and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr.S.S.Rangi, Advocate
for the appellants.

Mr.A.S.Walia, Advocate
for respondents No.1 and 2.

Mr.Sandeep Singh, Advocate
for respondent No.3.

- i. Whether Reporters of local papers may be allowed to see the judgment?
- ii. To be referred to the Reporters or not?
- iii. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This appeal has been filed for enhancement of compensation.

Brief facts of the case as enumerated in the claim petition are that on 27.02.2008 Iqbal Singh(since deceased) was going to village Uni on his scooter and one Mohinder Singh was sitting on the pillion when they met with an accident with the offending car being driven by respondent No.2

rashly and negligently as a result of which both the occupants of the scooter sustained grievous injuries and died on their way to hospital. This appeal has been filed in respect of the claim petition filed by the legal heirs of deceased Iqbal Singh.

The deceased was 53 years of age and stated to be cultivating land measuring 25 acres which was owned by him. He was also having a tractor. He was also doing the business of rearing of milch cattle.

The Tribunal assessed the income of the deceased as Rs. 8000/- per month, deducted 1/4th towards his personal expenses and thereby dependency of the claimants on the deceased came to Rs. 6000/- per month and Rs. 72,000/- per annum. Since he was 53 years of age, multiplier of 11 was applied and in this way the claimants were entitled to compensation of Rs. 7,92,000/-(Rs. 72,000 x 11). Besides that the Tribunal also awarded Rs. 10,000/- on account of loss of estate, Rs. 10,000/- on account of loss of consortium and Rs. 5000/- as funeral expenses. Thus, the total compensation awarded by the Tribunal was Rs. 8,17,000/- along with interest at the rate of 6% p.a.

Learned counsel for the appellants has argued that nothing has been awarded by the Tribunal for future prospects. The deceased was of the age of 53 years, therefore, an additional increase of 15% should have been granted towards future prospects. In view of the decision of this Court in FAO No. 929 of 2014, National Insurance Company Limited v. Gurdev Kaur and others, decided on 18.02.2014, I award future prospects to the extent of 15%.

Learned counsel for the appellants has further argued that under the conventional heads the amount awarded by the Tribunal is highly inadequate. In support of his argument he has relied upon Rajesh and others vs Rajbir Singh and others, 2013(9) SCC 54, and Vimal Kanwar and others vs Kishore Dan and others, (2013-3) PLR 776.

As regards compensation regarding loss of love and affection, counsel for the respondent-Insurance Company has argued that the Hon'ble Supreme Court in Rajesh and others' case (supra) granted a total amount of Rs.1 lac towards loss of consortium to the widow and Rs. 1 lac to three minor children for loss of care and guidance.

Counsel for the appellants, on the other hand, has contended that in Vimal Kanwar and others' case (supra), the Hon'ble Supreme Court awarded a sum of Rs.1 lac to the widow and a sum of Rs. 2 lac to the minor girl on account of loss of love and affection, and another sum of Rs.1 lac towards loss of consortium to the widow.

Consequently, I award Rs.90,000/- more to appellant No.1(widow) for for loss of consortium and Rs.1 lac for loss of love and affection, Rs. 1 lac each to the daughters i.e. appellants No. 2, 3 and 4 and Rs. 50,000/- to the son i.e. appellant No.5 for loss of love and affection/loss of care and guidance. Besides that I also award Rs. 20,000/- more towards funeral expenses.

Learned counsel for the appellants has further argued that as per the award the appellants were awarded interest at the rate of 6% p.a. which is on the lower side and that too conditional. I grant non-conditional interest at the rate of 10% p.a. on the amount of compensation from the date

of filing of the claim petition till realisation.

Apart from the individual amounts, the entire enhanced amount would be shared equally between appellant No.1 and the minor son. Learned counsel has fairly argued that the daughters have got married as of now. Therefore their share be released to them. However, out of the share of appellant No.1, 50% would be released to her in cash and the remaining 50% shall be put in a fixed deposit in any nationalised bank for a period of three years and she would be entitled to get monthly/quarterly interest thereon. The share of the minor son shall also be put in a fixed deposit in any nationalised bank and shall be released to him only on his attaining the age of majority.

With the modification in the award, the appeal is allowed to the above extent.

(AJAY TEWARI)
JUDGE

April 24, 2014
sunita