

Chanderi Devi & Anr vs Jaspal Singh & Ors on 31 March, 2015

Equivalent citations: 2015 AIR SCW 2450, 2015 (11) SCC 703, 2015 AAC 1593 (SC), 2015 (3) AJR 246, AIR 2015 SC (SUPP) 1091, (2015) 2 TAC 337, (2015) 2 ACC 705, (2015) 61 OCR 109, (2015) 1 WLC(SC)CVL 719, (2015) 3 ACJ 1612, (2015) 4 SCALE 390, (2015) 2 RECCIVR 699

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Bench: C. Nagappan, V.Gopala Gowda

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3238 OF 2015
(Arising out of SLP(C) NO. 1865 OF 2014)

CHANDERI DEVI & ANR

...APPELLANTS

Vs.

JASPAL SINGH & ORS

....RESPONDENTS

J U D G M E N T

V. GOPALA GOWDA, J.

Leave granted.

This appeal has been filed by the appellant-claimants against the Judgment and order dated 25.07.2013 passed in FAO No. 1652 of 2010 by the High Court of Punjab and Haryana at Chandigarh, wherein the High Court has partly allowed the appeal by enhancing the amount of compensation to Rs.17,10,000/- from Rs.2,00,000/- as awarded by the Motor Accidents Claims Tribunal, Sonapat (for short 'the Tribunal') in its award. The necessary relevant facts are stated hereunder to appreciate the case with a view to ascertain whether the appellants are entitled for further enhancement of compensation as prayed in this appeal.

On the intervening night of 29/30.9.2006, Surinder Singh, Chander Singh and Bijender Singh were travelling in a car bearing registration No. CH-03-P-8405 being driven by Jaspal Singh (respondent No.1) and owned by Karnail Singh (respondent No.2) which hit a car bearing registration No.DL-9CA-7393 being driven by Vikas Khanna near Piao-Maniari on G.T. Road, Sonapat. All the injured

were shifted to General Hospital, Sonapat. Surinder Singh-husband of appellant No.1 and father of appellant No.2 succumbed to his injuries on 04.10.2006.

The appellants filed a claim petition before the Tribunal, Sonapat claiming Rs.1,00,00,000/- as compensation on the ground that the deceased was 32 years of age at the time of his death, and he had been working as an Indian Cook in Moghul Tandoor Restaurant, Bruckenkopfstr, 1/2 Heidelberg, Germany and was earning Rs.1,00,000/- per month and that Rs.1,00,000/- was spent on his treatment, transportation and last rites. The Tribunal on consideration of the facts, circumstances and evidence on record, passed an award of Rs.2,00,000/- with an interest at the rate of 7.5% per annum.

Being aggrieved by the inadequate compensation awarded by the Tribunal, the appellants filed FAO No.1652 of 2010 before the High Court of Punjab and Haryana at Chandigarh, wherein the High Court enhanced the compensation amount to Rs.17,10,000/-. Aggrieved by the same, the appellants filed this appeal.

It has been contended by the learned counsel for the appellants that the courts below ought to have appreciated that the deceased was about 32 years of age and was employed as an Indian Cook in Moghul Tandoor Restaurant, Bruckenkopfstr, 1/2 Heidelberg, Germany, earning about 1145 Euros per month.

Further, it has been contended by the learned counsel that the High Court ought not to have arbitrarily fixed the income of the deceased at the time of his death at Rs.1,00,000/- per annum, without properly appreciating the facts and evidence on record and assigning valid reasons, while fixing the same. It is contended by the learned counsel that this Court has held that courts have the power to fix any reasonable amount in favour of the claimants in the absence of documentary proof of monthly income of the deceased and also that if the amount claimed by the claimants was reasonable, then the same could be relied on by the courts & award just and reasonable compensation. Further, it is contended by the learned counsel that in the instant case, the appellants had produced the certificates showing the income of the deceased as well as the income tax payments made by the deceased for the year ending 2006, which ought to have been considered by the courts below while determining the income of the deceased to calculate the loss of dependency of the appellants. Further, it is contended that the High Court ought to have considered the future prospects of the deceased to be added to the actual income of the deceased while calculating the loss of dependency as per the law laid down by this Court in the case of *Sarla Verma v. Delhi Transport Corporation and Another*[1].

On the other hand, it has been contended by the learned counsel for the respondent-Insurance Company that the amount awarded by the High Court to the appellants as compensation is just and reasonable and does not call for any upward revision. In support of the same, reliance has been placed on the decisions of this Court in *State of Haryana v. Jasbir Kaur*[2] and *Divisional Controller K.S.R.T.C. v. Mahadev Shetty*[3], wherein it is held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance.

We have heard the learned counsel for the parties & perused the record. The courts below have considered the evidence produced on record by the appellants, particularly the passport, salary certificate, income-tax certificates and whether or not the deceased was employed in Germany at the time of the accident to ascertain the annual income of the deceased at the time of his death and the courts below found that the same cannot be assessed on the basis of the documents referred to above. The High Court found it to be just and reasonable to take the income of the deceased at the time of his death at Rs.8,333/- per month, which in our considered view is definitely on the lower side keeping in view that the deceased was employed as a cook in an Indian restaurant in Germany. At the same time, to consider the income of the deceased at Rs.62,975/- per month (i.e. 1145 Euros) as contended by the appellants to calculate the loss of dependency of the appellants would definitely be on the higher side. Hence, on considering the facts, circumstances of the case and plausibly estimating as to how much a cook of similar nature as the deceased would have earned in India in the year 2006, we are of the view that it would be just and reasonable for us to ascertain the income of the deceased at the time of his death at Rs.15,000/- per month. By adding 50% of the actual salary as provision for future prospects, the income of the deceased to be considered for calculation of loss of dependency is Rs.22,500/- per month i.e. Rs.2,70,000/- per annum. Deducting 10% towards income tax the net income comes to Rs.2,43,000/- per annum. Further, deducting 1/3rd towards personal expenses and applying the correct multiplier as per the legal principles laid down by this Court in the case of Sarla Verma (supra), the loss of dependency would come to Rs.25,92,000/- [(Rs.2,43,000/- (-) 1/3rd of Rs.2,43,000/-) x 16].

Further, we award Rs.1,00,000/- towards loss of estate to the appellant- wife as per the legal principles laid down by this Court in the case of Kalpanaraj & Ors. v. Tamil Nadu State Transport Corporation[4], Rs.25,000/- towards funeral expenses and Rs.1,00,000/- towards loss of consortium to the appellant-wife as per the principles laid down by this Court in the case of Rajesh & Ors. v. Rajbir Singh & Ors.[5] Further, an amount of Rs.1,00,000/- is awarded to the appellant-minor towards loss of love and affection of her father(deceased) as per the decision of this Court in the case of Juju Kuruvila & Ors. v. Kunjamma Mohan & Ors.[6].

In the result, the appellants shall be entitled to compensation under the following heads:

1.	Loss of dependency	Rs.25,92,000/-	
2.	Loss of estate	Rs.1,00,000/-	
3.	Loss of consortium	Rs.1,00,000/-	
4.	Loss of love and affection	Rs.1,00,000/-	
5.	Funeral expenses	Rs.25,000/-	
	TOTAL	Rs. 29,17,000/-	

Further, an interest at the rate of 9% p.a. on the total amount of compensation awarded by this Court in this appeal as per the principles laid down by this Court in the case of Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy[7].

15. Accordingly, we allow this appeal and award an amount of Rs. 29,17,000/- with interest @9% p.a. from the date of filing of the application till the date of payment. The respondent-Insurance

Company is directed to deposit the sum payable to the appellant-minor with proportionate interest awarded by this Court in fixed deposit in any nationalised bank as per the preference of appellant-No.1/guardian till the appellant No. 2 attains majority with the liberty to the appellant No.1/guardian to withdraw interest and such amount for her education, development and welfare by filing the appropriate application before the Motor Accidents Claims Tribunal, Sonapat.

The respondent-Insurance Company shall either pay the remaining amount of compensation with proportionate interest awarded by us by way of demand draft in favour of the appellant No.1 or deposit the same before the Motor Accidents Claims Tribunal, Sonapat after deducting the amount already paid to the appellants, if any, within six weeks from the date of receipt of the copy of this judgment. No Costs.

.....J. [V.GOPALA GOWDA]
.....J. [C. NAGAPPAN] New Delhi, March 31, 2015 ITEM
NO.1A-For JUDGMENT COURT NO.9 SECTION IVB S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS Civil Appeal No(s)...../2015 arising from SLP(C) No.1865/2014
CHANDERI DEVI & ANR Appellant(s) VERSUS JASPAL SINGH & ORS Respondent(s) Date :
31/03/2015 This matter was called on for pronouncement of JUDGMENT today.

For Appellant(s) Ms. Abha R. Sharma,Adv.

For Respondent(s) Dr. Meera Agarwal,Adv.

Mr. Sanpreet Singh Ajmani, Adv.

Mr. Manohar Pratap, Adv.

Mr. S. K. Sabharwal,Adv.

Hon'ble Mr. Justice V.Gopala Gowda pronounced the judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice C. Nagappan.

Leave granted.

The appeal is allowed in terms of the signed Non-Reportable Judgment.

(VINOD KR. JHA)
COURT MASTER

(TAPAN KUMAR CHAKRABORTY)
COURT MASTER

(Signed Non-Reportable Judgment is placed on the file)

[1] [2] (2009)6 SCC 121 [3] [4] (1999)1 SCC 90 [5] [6] (2003) 7 SCC 197 [7] [8] 2014 (5) SCALE 479
[9] [10] (2013) 9 SCC 54 [11] [12] (2013)9 SCC 166 [13] [14] (2011) 14 SCC 481

|NON REPORTABLE |