
(2005) 07 P&H CK 0061
In the Punjab And Haryana At Chandigarh
Case No : First Appeal Order No. 413 of 1986

Dayal Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 11-07-2005

Acts Referred:

Citation : (2005) 4 ACC 452 : (2006) ACJ 377 : (2005) 141 PLR 600 : (2005) 4 RCR(Civil) 53

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : L.M. Suri, Ravinder Arora and Geeta Sharma, for the Appellant; S.K. Hooda, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Ashutosh Mohunta, J.—The claimants have filed this appeal for modification of the award dated 11.3.1986 passed by the Motor Accident Claims Tribunal, Karnal (for short "the Tribunal") whereby the claimants have been awarded a compensation of Rs. 1,67,440/- on account of the death of Inderjit Singh Bajaj in a road accident.

2. Inderjit Singh Bajaj was hit by the Haryana Roadways bus bearing No. YM-6301, which was being driven rashly and negligently by Ajmer Singh, respondent No. 2, at about 2.30 P.M. on 22.9.1985, while he was proceeding on the railway road, Karnal, towards the Railway Station. He received multiple injuries and became unconscious on the spot. He was shifted to the Civil Hospital, Karnal. Thereafter, he was shifted to the All India Institute of Medical Sciences on the same day and then to the Safdarjang Hospital, New Delhi. Ultimately, he died on 29.9.1985, i.e., after a week, without regaining consciousness. A case was registered at Police Station City, Karnal. The deceased was about 32 years of age at the time of the accident and he was working as Junior Assistant in the Haryana State Minor Irrigation Tubewell Corporation, Karnal (for short "the Tubewell Corporation"). He was drawing a monthly salary

of Rs. 1,324.30 per month besides the Additional D.A. sanctioned by the Government. A sum of Rs. 5,000/- was spent on his treatment and another sum of Rs. 5,000/- was spent on the cremation. He left behind his parents (Dayal Singh and Smt. Ram Piari), widow Suman Lata and two minor daughters, namely, Supria and Anu Priya. His wife Suman Lata was pregnant at the time of his death. A third daughter was born to her after the death of Inderjit Singh Bajaj. As all of them were dependent upon Inderjit Singh Bajaj, they claimed compensation to the tune of Rs. 3,00,000/- and also interest at the rate of 12% per annum from the date of petition till realisation. The Tribunal after examining the evidence adduced on record found the version given by the claimants truthful and awarded a total compensation of Rs. 1,67,400.00 with interest at the rate of 12% from the date of petition till realisation. While calculating compensation, the Tribunal deducted one-third amount as the personal expenses of the deceased and in this way he assessed the dependency of the claimants at Rs. 820/- per month and applied the multiplier of 16. The claimants have challenged the calculations made by the Tribunal for determining the amount of compensation by filing the present appeal.

3. Mr. L.M. Suri, learned Senior Advocate, appearing for the appellants, contends that in the present case, the compensation ought to have been awarded on the basis of Unit System. In this regard he has placed reliance on U.P. State Road Transport Corporation and Others Vs. Trilok Chandra and Others, . Learned Counsel contends that in the present case, the parents, widow and three minor daughters (one born after the death of the deceased) were dependent upon the deceased. As per Unit System as enumerated in U.P. State Transport Corporation v. Tarlok Chand (supra) each of the adults would be entitled to two units and the minor children would be entitled to one unit each. In this way, the parents of the deceased would be entitled to 4 units and the widow would be entitled to 2 units. The three minor daughters would be entitled to 3 Units. Besides this, 2 units would be earmarked for the deceased. Thus, the entire family would be entitled for 11 units. While calculating the amount of compensation for being paid to the claimants, 2 Units which the deceased was spending upon himself are to be deducted out of his total salary. The counsel contends that the deceased, who was employed as a Junior Assistant in the Tubewell Corporation, was getting a total salary of Rs. 1,324/- per month, besides one month's salary as statutory bonus every year. Thus, the total monthly salary being drawn by the deceased comes to Rs. 1,450/-. He contends that 2 units salary (Rs. 264/-) ought to have been deducted out of the total monthly salary, being the personal expenses of the deceased. By deducting the personal expenses of the deceased, the dependency of the claimants would come to Rs. 1,186/- per month. It is further contended by the learned Counsel that the deceased was 32 years of age at the time of the accident and the multiplier of 18 is required to be applied for calculating the amount of compensation, as per the new schedule. It is contended that although the new schedule is not applicable, but the principle of determining the compensation and the multiplier to be applied would be the

same. Thus, the counsel prays that the claimants would be entitled to a compensation of Rs. 1,186/- x 12 x 18 = Rs. 2,56,176/-.

4. On the other hand, Mr. S.K. Hooda, Deputy Advocate General, Haryana, contends that the deceased was getting a salary of Rs. 1,224/- + Rs. 100/- towards House Rent and the bonus. He contends that the House Rent Allowance, which was being paid to the deceased, cannot be counted in the salary of the deceased. It is further contended that even the bonus which was being paid to the deceased also cannot be counted in the salary because the payment of bonus may go down in the subsequent years in case the Tubewell Corporation is running into losses. According to Mr. Hooda, learned Deputy Advocate General, a sum equivalent to one-third of the total salary ought to be deducted as the personal expenses of the deceased. The counsel contends that as the deceased was getting a monthly salary of Rs. 1,224/-, the amount which the deceased was spending on his family comes to Rs. 820/-, after deducting one-third as his personal expenses. It is further contended by Mr. Hooda that the claimants are not entitled to a multiplier of 18 as the New Schedule is not applicable in the facts and circumstances of the case.

5. After hearing the learned Counsel for the parties, I am of the considered opinion that the compensation in the present case has to be determined on the basis of the Unit System as enumerated by their Lordships of the Supreme Court in *U.P. State Transport Corporation v. Tarlok Chand* (supra). Their Lordships have reiterated the Unit System in para 15 of the said judgment in order to work out the "just" compensation. Para 15 of the said judgment is reproduced hereunder for ready reference:

"15. We thought it necessary to reiterate the method of working out "just" compensation because, of late, we have noticed from the awards made by Tribunals and Courts that the principle on which the multiplier method was developed has been lost sight of and once again a hybrid method based on the subjectivity of the Tribunal/Court, has surfaced, introducing, uncertainty and lack of reasonable uniformity in the matter of determination of compensation. It must be realised that the Tribunal/Court has to determine a fair amount of compensation awardable to the victim of an accident which must be proportionate to the injury caused. The two English decisions on which we have referred earlier provide guidelines for assessing the loss occasioned to the victims. Under the formula advocated by Lord Wright in *Davies*, the loss has to be ascertained by first determining the monthly income of the deceased, and thus assessing the loss to the dependents of the deceased. The annual dependency assessed in this manner is then to be multiplied by the use of an appropriate multiplier. Let us illustrate: X, male, aged about 35 years, dies in an accident. He leaves behind his widow and 3 minor children. His monthly income was Rs. 3,500/-. First, deduct the amount spent on X every month. The rough and ready method hitherto adopted where no definite evidence was forthcoming, was to break up the family into units, taking two units for an adult and one unit

for a minor. Thus X and his wife make $2+2 = 4$ units and each minor one unit, i.e., 3 units in all, totalling 7 units. Thus the share per unit works out to Rs. 3,500 divided by 7 = Rs. 500 per month. It can thus be assumed that Rs. 1,000/- was spent on X. Since he was a working member some provision for his transport and out-of-pocket expense has to be estimated. In the present case we estimate the out-of-pocket expense at Rs. 250/-. Thus, the amount spent on the deceased X works out to Rs. 1,250/- per month leaving a balance of Rs. 3,500/- 1,250/- = Rs. 2,250/- per month. This amount can be taken as the monthly loss to X's dependents. The annual dependency comes to Rs. 2,250/- x 12 = Rs. 27,000/-. This annual dependency has to be multiplied by the use of an appropriate multiplier to assess the compensation under the head of loss to the dependents. Take the appropriate multiplier to be 15. The compensation comes to Rs. 27,000 x 15 = Rs. 4,05,000/-. To this may be added a conventional amount by way of loss of expectation of life. Earlier this conventional amount was pegged down to Rs. 3000/- but now having regard to the fall in the value of the rupee, it can be raised to a figure of not more than Rs. 10,000/-. Thus the total amount comes to Rs. 4,05,000/- + 10,000/- = Rs. 4,15,000/-."

As the deceased was supporting his old parents, widow and the three minor daughters, therefore, in all the family was entitled to 11 Units as per the method of calculation enumerated by the Hon'ble Supreme Court. Now the question arises as to how much, compensation should be determined. The monthly salary of the deceased was Rs. 1,224/-. Besides this, he was getting Rs. 100/- as house rent allowance. He was also getting statutory bonus equivalent to one month's salary every year. It has come in evidence that the deceased was living in his own house. Therefore, the house rent allowance, which was being paid to the deceased, has to be added to his salary. The bonus, equivalent to one month's salary, has also to be added to the total amount which was earned by the deceased because it is the statutory bonus which is being paid to the employees by the Tubewell Corporation. Thus, the compensation has to be assessed by taking the monthly salary of the deceased as Rs. 1,450/-. As the deceased spent 2 units on himself, therefore, a sum of Rs. 264/- is to be deducted out of Rs. 1,450/-. In this way, the total dependency of the family comes to Rs. 1,186/- per month. As per the New Schedule, a person who dies at the age of 32, would be entitled to a multiplier of 18. The same principle has to be adopted in the present case. Thus, the total compensation which the claimants would be entitled to would be $1186 \times 12 \times 18 =$ Rs. 2,56,176/-. Besides this, the claimants would be entitled to a sum of Rs. 5,000/- as medical expenses as well as another amount of Rs. 5,000/- as funeral expenses. An amount of Rs. 10,000/- has, thus, to be added to the total compensation of Rs. 2,56,176/- along with interest at the rate of 12% per annum from the date of petition till realisation, as awarded by the Tribunal. As the amount awarded by the Tribunal has already been received by the claimants, therefore, they shall be entitled to receive the balance amount.

Consequently, the appeal stands allowed.