

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

CIMA No.249/2010

Date of order:-29/09/2016

Shamshad Begum and ors. Vs. Gurmeet Singh and ors.

Coram:

Hon'ble Mr. Justice Ramalingam Sudhakar, Judge

Appearing counsel:

For the Petitioner/Appellant (s) : Mr.R.K.Bhatia, Advocate.

For the respondent(s) : Mrs.Sindhu Sharma, ASGL.

- (a) Whether approved for reporting in Net : Yes/No.
- (b) Whether approved for reporting in Press/Media : Yes/No.
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1. This appeal is of the year 2010.
2. The appeal is filed by the claimants seeking enhancement of the compensation. The accident in this case happened on 24.09.2007. One Mohd. Qasim aged 31 years – a Naik in the army was travelling in the army vehicle which hit a bridge and in that accident, he died. The negligence on the part of the driver of the army vehicle is not in dispute. The only issue raised in the appeal by the claimants is on the quantum of compensation which according to them is meager.
3. In support of the claim, the following oral and documentary evidence were led in by the claimants: (i) The wife of the deceased was examined as witness; (ii) PW-Havildar Suram Chand was examined to say about the salary and date of birth of the deceased; (iii) The eye witness Imtiaz Ahmed was also examined.
4. No oral and documentary evidence was filed by the army. The Tribunal after discussing the case in hand and taken into consideration that the claimants are wife –aged 29 years, two minor sons – aged 8 and 6

years respectively, father of the deceased aged 61 years and mother of the deceased aged 57 years, fixed the income of the deceased at Rs.13,090/-, out of which 1/4th was deducted towards personal expenses of the deceased leaving behind Rs.9818/- per month and Rs.1,17,816/- per annum to the dependents. The Tribunal by adopting the multiplier of “15” granted the following amount as compensation:

1.	For loss of dependency	Rs.17,67,240/-
2.	For funeral expenses	Rs.15,000/-
3.	For loss of consortium to widow	Rs.15,000/-
	Total	Rs.17,97,240/- with 7.5% interest per annum.

5. In this appeal, it is claimed that the Tribunal failed to take into consideration future prospects of the deceased. Considering the age of deceased at the time of accident, i.e. 31 years old and also the date of accident which happened in 2007 and in terms of judgment of the Hon’ble Supreme Court in case titled *Sarla Verma and ors. V. Delhi Transport Corporation and anr.* reported as (2009) 6 SCC 121, future prospects should have been considered, more particularly, in the case where the deceased is a Naik in the Army.
6. In view of the above stated decision of the Supreme Court and the age and occupation of the deceased, the future prospects is fixed at 50%. Therefore, the Tribunal should have fixed the income of the deceased at Rs.13,090 + Rs.6545 = Rs.19635/-. Deducting 1/4th towards personal expenses of the deceased out of Rs.19635/-, (Rs.19635 divided by 4 = Rs.4908/-) the total loss of pecuniary benefits to the dependents

comes to Rs.14,727/- (Rs.19635-4908 = Rs.14727/-) per month. The deceased in this case was of 31 years old and, therefore, the appropriate multiplier in terms of Sarla Verma's case(supra) will be '16'. Therefore, the total pecuniary loss will be (Rs.14727 x 12 x 16) = Rs.28,27,584/-. The Tribunal has granted Rs.15,000/- towards funeral expenses and the same is confirmed. The young widow was granted meager compensation for loss of consortium. She will be entitled to Rs.25,000/- for loss of consortium. Two minor children will be entitled to Rs.30,000/- each for loss of love and affection which was omitted and the father and mother of the deceased will be entitled to Rs.25,000/- each for loss of love and affection which was also omitted.

7. The award of the Tribunal is thus modified and the claimants are entitled to the following enhanced compensation, with interest at the rate of 7.5% per annum from the date of filing of claim petition before the Tribunal:-

S.No.	Heading	Award of the Tribunal	Modified Award
1.	For loss of Dependency	Rs.17,97,240/-	Rs. 28,27,584/-
2.	For funeral expenses	Rs. 15,000/-	Rs.15000/-
3.	For loss of consortium to widow	Rs.15,000/-	Rs.25,000/-
4.	For loss of love and affection to two minor children	Nil	Rs.30,000/- each (totaling Rs.60,000/-)
5.	For loss of love and affection to father and mother	Nil	Rs.25,000/- each (totaling Rs.50,000/-)
Total		Rs.17,97,240/-	Rs.29,77,584/-

8. Mrs. Sindhu Sharma, learned Assistant Solicitor General of India seeks and is granted 12 weeks' time to deposit the enhanced award from the date of supply of copy of this order.
9. This appeal is allowed in the above terms enhancing the award of the Tribunal.

(Ramalingam Sudhakar)
Judge

Jammu,
29.09.2016
Varun