

Hardeo Kaur and others

Vs

Rajasthan State Transport Corporation and anotherszzz

Civil Appeal No. 2259 of 1992

(Kuldip Singh, Yogeshwar Dayal JJ)

13.03.1992

JUDGEMENT

KULDIP SINGH, J.:-

1. Special leave granted.

2. Major Dalip Singh, along with his wife Hardeo Kaur and his two sons Jasminder Singh (10 years) and Balvinder Singh (7 years), was travelling in his Ambassador car from Mathura to Delhi on July 30, 1977. A Rajasthan State Road Transport Corporation's bus driven by Ramesh Chandra Sharma struck against the Ambassador car driven by Major Dalip Singh. Major Dalip Singh, his wife and sons were injured in the accident. Unfortunately Major Dalip Singh succumbed to the injuries. Master Jasvinder Singh received multiple injuries including fracture of nasal bone. His younger brother Balvinder Singh received injury on the forehead and multiple abrasions on various parts of the body. Hardeo Kaur, however, received minor injuries. A claim petition was filed by Hardeo Kaur, her two minor sons and daughter Davendra Kaur (6 years) before the Motor Accidents Claims Tribunal, Mathura. The Tribunal by its judgment dated January 29, 1980 found on the basis of the evidence adduced before it that the accident took place due to rash and negligent driving of the bus by the driver Ramesh Chandra Sharma. Regarding quantum and assessment of compensation the Tribunal held as under :

"In the present case the evidence shows that Major Dalip Singh was drawing a monthly salary of Rupees 2,200/-. He died leaving a wife and three minor children. Normally it is to be presumed that the deceased was spending 1/3rd of his salary on personal expenses. In the present case the deceased was an Army Officer. Experience shows that the personal expenses of Army Officer are more than the other Civil servants specially because they have to spend some amount on mess expenses and on drinks etc. Evidence also shows that Major Dalip Singh occasionally used to take drinks, though moderately. In view of all these facts I am of the opinion that it must be held that Major Dalip Singh was spending half of his salary on personal expenditure while the remaining half was spent on his family. He was aged 36 at the time when this occurrence took place. The normal span of life is taken as 60 years, but in my opinion in the case of army officers this span should be taken as 56 years. Army officers are also retired about 4 years earlier than civil Government servants. Thus the normal expectancy of life of Major Dalip Singh was (56-36) 20 years. Thus the annual amount which Major Dalip Singh was spending for his family comes to Rs. 1100 X 12 = 13,200.00 which multiplied by 20, which was the average expectancy of life in his case amounts to Rs. 2,64,000/-. Out of this, deduction of

1/3rd should be made on account of lump sum payment. The balance amounts to Rs. 1,76,000/- which should be the amount of damages to be allowed to the heirs of deceased Major Dalip Singh."

3. So far as Jasvinder Singh and Balvinder Singh are concerned the Tribunal awarded Rs. 3,000/- and Rs. 1,000/- respectively. The Tribunal thus awarded a sum of Rs. 1,80,000/- as damages on account of the death of Major Dalip Singh and injuries received by his minor sons. The Tribunal further awarded interest at the rate of 6 per cent per annum from the date of application before the Tribunal till the date of realisation. Hardeo Kaur and her children filed appeal before the High Court for enhancement of compensation but the same was dismissed on March 2, 1988. Hence this appeal by the widow and her minor children.

4. The learned counsel for the appellants argued that the courts below have grossly erred in reaching a finding that late Major Dalip Singh being an army officer used to spend one half of his salary on personal expenditure. According to him the finding is based on mere surmises and conjectures. He has stated that it was specifically pleaded before the Tribunal that Major Dalip Singh used to spend nearly 1,400 per month on his family which was solely dependent upon him. The learned counsel has also argued that there was no basis to take the life span of an army officer to be 56 years. According to him the life span should be taken to be 70 years in the modern environments. The learned counsel has contended that the deduction of 1/3rd assessed compensation on account of lump sum payment is wholly unjustified. He further contended that the compensation awarded to the minor children is on the lower side and no compensation was awarded for loss of consortium to wife and the minor children.

5. We see considerable force in the arguments of the learned counsel for the appellants. There was no basis or justification before the Tribunal to have reached the finding that Major Dalip Singh was spending half of the salary on himself. On the other hand it was specifically claimed by the appellants that he was spending nearly 1,400 per month to support his family. It is common knowledge that personal needs of army officers including drinks are supplied to them at a subsidised price through the Army canteens. We, therefore, set aside the finding of the Courts below and hold that late Major Dalip Singh was spending Rs. 1,400 per month on his family.

6. This Court in *Jyotsna Dey v. State of Assam*, 1987 Acc CJ 172, has observed that the span of life should be taken to be 70 years in view of the high rise in life expectancy. It is specially so in the case of Army Officers who are disciplined to live an active and energetic life. The Courts below were not justified in taking the normal span of life to be 60 years and that of an Army Officer 56 years.

7. We are of the view that deduction of 1/3rd out of the assessed compensation on account of lump sum payment is not justified. The accident took place in July, 1977 and the litigation has come to an end, hopefully, today, 15 years thereafter. This Court in *Motor Owners Insurance Company Ltd. v. J. K. Modi*, 1981 Acc CJ 507: (AIR 1981 SC 2059) held that the delay in the final disposal of motor accident compensation cases, as in all other classes of litigation, takes a sting out of the laws of compensation and added to that the monstrous inflation and the consequent fall in the value of rupee makes the compensation demanded years ago less than quarter of its value when it is received after such a long time. In *Manju Shri Raha v. B. L. Gupta*, 1977 Acc CJ 134 : (AIR 1977 SC 1158) this Court awarded compensation by multiplying the life expectancy without making any deductions. With the value of rupee dwindling due to high rate of inflation, there is no justification for making deduction due to lump sum payment. We, therefore, hold that the Courts below were not justified in

making lump sum deduction in this case.

8. This Court in *India Insurance Co. Ltd. v. Nirmala Devi*, 1980 Acc CJ 55: (AIR 1979 SC 1666), held as under :

"The determination of the quantum must be liberal, not niggardly since the law values life and limb in free country in generous scales.

9. The Tribunal became oblivious of the fact that there is time-bound consideration for promotion in the Army. Apart from that there have been upward revisions in the payscales of Army personnel. No compensation was awarded for the loss of consortium to the wife and children. Even the life expectancy was taken to be as low as 56. Considering all these circumstances we are of the view that a multiplier of 24 would meet the ends of justice.

10. Thus the annual amount which Major Dalip Singh was spending for his family comes to Rs. 16,800/- (Rs. 1,400 x 12) which multiplied by 24 comes to Rs. 4,03,200/-. We, therefore, assess the amount of damages to be allowed to the appellant-claimants at Rs. 4,03,200/-.

11. We agree with the Tribunal that the injuries on the person of Hardev Kaur were not such as to entitle her to claim compensation. The compensation awarded to the young boys, according to us, is on the lower side. We assess Rs. 10,000/- in the case of Jasriinder Singh and Rs. 5,000/- in the case of Balwinder Singh.

12. The Tribunal has awarded interest @ 6% p.a. from the date of filing of the application before the Tribunal till the date of realisation. In *Chameliwati v. Delhi Municipal Corporation*, 1985 Acc CJ 645 : (AIR 1986 SC, 1191) this Court awarded interest @ 12% p.a. from the date of the application. Similarly in *Jasbir Singh v. General Manager, Punjab Roadways*, 1987 Acc CJ 15 : (AIR 1987 SC 70), this Court enhanced the interest from 6% p.a. to 12% p.a. We, therefore, hold that apart from the damages the appellants are entitled to claim interest @ 12% p.a. instead of 6% awarded by the Tribunal.

13. In view of the above discussion the claimants are entitled to a total sum of Rs. 4,18,200/- as damages on account of the death of Major Dalip Singh and injuries received by Jasminder Singh and Balwinder Singh. The appellant are also entitled to claim interest @ 12% p.a. from September 3, 1977, the date of the application before the Tribunal till the date of realisation. Both the opposite parties are jointly and severally responsible to pay the decretal amount.

14. The judgments of the Tribunal and of the High Court are modified and the appeal is allowed in the terms indicated above with costs which are assessed at Rs. 5,000/-. Appeal allowed.

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