

PETITIONER:
HERDEO KAUR AND ORS.

Vs.

RESPONDENT:
RAJASTHAN STATE TRANSPORT CORPORATION AND ANR.

DATE OF JUDGMENT 13/03/1992

BENCH:
KULDIP SINGH (J)
BENCH:
KULDIP SINGH (J)
YOGESHWAR DAYAL (J)

CITATION:
1992 AIR 1261 1992 SCR (2) 272
1992 SCC (2) 567 JT 1992 (2) 409
1992 SCALE (1) 662

ACT:
Motor Vehicles Act, 1939:
Section 110 and 110-B-Accident claim-Award of
compensation-Criteria for-Determination of-Adoption of
Liberal approach-Need for.

HEADNOTE:

The first appellant, her husband a young Army officer of 36 years and their two minor sons were injured in a road accident when the respondent-State Road Transport Corporation's bus struck against the car in which they were travelling. While the appellant's husband succumbed to the injuries, one of the sons received multiple injuries and another received injury on the forehead and multiple abrasions on various parts of the body. The first appellant, however, received minor injuries.

The first appellant, her two minor sons and daughter filed a claim petition before the Motor Accidents Claims Tribunal. The Tribunal found that the accident took place due to rash and negligent driving of the bus by the driver. Regarding quantum of compensation, it held that the deceased was spending half of his salary on his personal needs, that the normal life expectancy of the deceased, who was 36 years of age when the mishap occurred, was 20 years since the normal life span of an army Officer was 56 years and, therefore, a compensation of Rs. 2,64,000 should be awarded for the loss of the deceased's and that after deduction of 1/3 on account of lumpsum payment, an amount of Rs. 1,76,000 should be paid as damages to heirs of the deceased. The Tribunal also awarded Rs. 3,000 and Rs.1,000 respectively to the two sons. It 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. The widow and her children filed appeal before the High Court for enhancement of compensation but the same was dismissed.

In the appeal, by special leave, before this Court on behalf of the

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widow, and her minor children, it was contended that the finding of the Courts below that the deceased, being an army officer used to spend one half of his salary on personal

expenditure, was grossly erroneous and based on mere surmised and conjectures, that it was specifically pleaded before the Tribunal that the deceased used to spend nearly Rs. 1,400 per month on his family, which was solely dependent upon him, that there was no basis to take the life span of an army officer to be 56 years, and it should be taken to be 70 years in the modern environments, that the deduction of 1/3rd assessed compensation on account of lumpsum payment was wholly unjustified, that the compensation awarded to the minor children was on the lower side and that no compensation was awarded for loss of consortium to wife and the minor children

Allowing the appeal, this Court,

HELD : 1.1 There was no basis or justification before the Tribunal to have reached the finding that the deceased was spending half of the salary on himself. On the other hand, it was specifically claimed by the appellants that he was spending nearly Rs. 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. Therefore, the finding of the courts below is set aside. The deceased was spending Rs. 1,400 per month on his family. [277B-C]

1.2 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, therefore, not justified in taking the normal span of life to be 60 years and that of an Army officer 56 years. [277D]

Jyotsna Dey v. State of Assam, (1987) ACJ 172, applied.

1.3 The deduction of 1/3rd out of the assessed compensation on account of lumpsum payment is not justified. The accident took place in July, 1977 and the litigation has come to an end, 15 years thereafter. 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. With the

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value of rupee dwindling, due to high rate of inflation, there is no justification for making deduction due to lumpsum payment. Therefore, the courts below were not justified in making lumpsum deduction in this case.

[277E-F, G]

Motor Owners Insurance Company Ltd v. J.K. Modi, (1981) ACJ 507; Manju Shri Raha v. B.L. Gupta (1977) ACJ 134 and India Insurance Co. Ltd. v. Nirmala Devi, (1980) ACJ 55, relied on.

1.4 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 pay-scales 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 a multiplier of 24 would meet the ends of justice.

[278B-C]

1.5 Thus, the annual amount which the deceased was spending for his family comes to Rs.16,800 (Rs. 1400 x 12) which multiplied by 24 comes to Rs.4,03,200. Therefore, the amount of damages to be allowed to the appellant-claimants is assessed at Rs.4,03,200. [278D]

1.6 The Tribunal was right in holding that the injuries

on the person of the first appellant were not such as to entitle her to claim compensation. However, the compensation awarded to the young boys is on the lower side. It should be Rs. 10,000 in the case of first son and Rs.5,000 in the case of second son. [278E]

1.7 In the circumstances, the claimants are entitled to a total sum of Rs.4,18,200 as damages on account of the death of the first appellant's husband and injuries received by the two sons. They are also entitled to claim interest @ 12% p.a. instead of 6% awarded by the Tribunal from the date of the application before the Tribunal till the date of realisation. Both the opposite parties are jointly and severely responsible to pay the decretal amount. [278G-H, 279A]

Chameliwati v. Delhi Municipal Corporation, (1985) ACJ 645 and Jagbir Singh and Others v. General Manager, Punjab Roadways and Others, (1987) ACJ 15, relied on.

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JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2559 of 1992.

From the Judgment and Order dated 2.3.1988 of the Allahabad High Court in F.A.F.O. No. 309 of 1980.

Praveen Kumar for the Appellants.

Yogeshwar Prasad and Sushil Kumar Jain for the Respondents.

The Judgment of the Court was delivered by

KULDIP SINGH, J. Special leave granted.

Major Dalip Singh, alongwith his wife Hardeo Kaur and his two sons Jasvinder 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 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 Rs. 2200. 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 Officers are more than the other Civil servant specially because they have to spend amount on mess expenses and on drinks etc. Evidence also shows that Major Dalip Singh."

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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. $1100 \times 12 = 13,200.00$ 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 lumpsum 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."

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.

The learned counsel for the appellants has argued that the courts below have grossly erred in reaching a finding that the 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 1400 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 lumpsum

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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.

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 the salary on himself. On the other hand it was specifically claimed by the appellant that he was spending nearly 1400 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 spending Rs. 1400 per month on his family.

This Court in *Jyotsna Dey v. State of Assam*, (1987) ACJ 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.

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) ACJ 507 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) ACJ 134 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 not 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.

This Court in India Insurance Co. Ltd v. Nirmla Devi, (1980) ACJ

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55 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."

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 pay-scales 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.

Thus the annual amount which Major Dalip Singh was spending for his family comes to Rs. 16,800 (Rs. 1400x12) 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.

We agree with the tribunal that the injuries on the person of Hardeo 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 Jasminder Singh and Rs. 5000 in the case of Balwinder Singh.

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) ACJ 645 this Court awarded interest @ 12% p.a. from the date of the application similarly in Jagbir Singh and Others v. General Manager, Punjab Roadways and Others, (1987) ACJ 15, 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.

In view of 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 appellants 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

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realisation. Both the opposite parties are jointly and severely responsible to pay the decretal amount.

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.

N.P.V

Appeal allowed.

JUDIS