

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 562 OF 2011
(Arising out of SLP(C) NO. 8028/2006)

BALWINDER SINGH

....Appellant

VERSUS

SHIV RATAN & ORS.

Respondent(s)

O R D E R

We have heard the learned counsel appearing for the parties. For the reasons stated in the application, we condone the delay in filing this petition. Application seeking for condonation of delay stands disposed of in terms of the aforesaid order.

Leave granted.

Appellant herein is the father of the deceased Sukhdeep Singh, who, while travelling in Tata Sierra Car on 9.11.1997, met with an accident and died as a fall out of the said motor accident. At the time of his death, the deceased was aged about 24 years and was a graduate in Civil Engineering and was studying for his MBA degree and at the same time was working as Manager (Marketing) with Shelco Knitwear at a salary of Rs.12,000/- p.m.

Due to the aforesaid death, the father preferred a Claim Petition before the Motor Accidents Claims Tribunal-II, Solan district, Solan, Himachal Pradesh (in short 'The Tribunal'). After recording the evidence in the said proceeding, an award was passed by the Tribunal on 29.11.2000 whereby the Tribunal determined the compensation at Rs.2,16,000/- payable in favour of the appellant herein.

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Appellant being aggrieved by the aforesaid Award, preferred an appeal before the Himachal Pradesh High Court and the said Appeal was registered as FAO No. 29 of 2001. By the judgment and order dated 13.9.2005, the Himachal Pradesh High Court disposed of the appeal by partly allowing the same and enhancing the compensation payable to the appellant from Rs.2,16,000/- to Rs.3,80,000/-.

Still aggrieved, the appellant filed the present appeal on which we have heard the learned counsel appearing for the parties.

Counsel appearing for the appellant contends that neither the Tribunal nor the High Court was justified in awarding the compensation as meagre as Rs.2,16,000/- which was subsequently raised to Rs.3,80,000/- by the High Court. He has drawn our attention to the evidence on record and also to the impugned judgment to support his case that the appellant is entitled to much more than what is awarded in his favour.

Counsel appearing for the respondent submitted that the appellant himself is well placed in life and therefore, he was not dependant at all on the income of the deceased and, therefore, the High Court was justified in taking the said fact into consideration while increasing the compensation to Rs.3,80,000/-.

However, on going through the record, we find that there

is no dispute with regard to the fact that the deceased was earning, at the time of his death, an amount of Rs.12,000 p.m. being employed as a part time employee with Shelco Knitwear. He was a Bachelor and was aged about 24 years and therefore, we can fix 50% of his income of Rs.12,000/-p.m. towards dependancy following the decision in the case of Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. as the deceased was a bachelor. Therefore the amount, which could be calculated as the dependancy of the appellant comes to Rs.72,000/- per annum. The appellant was aged about 49 years, at the time of the death

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of his son and, therefore, the proper multiplier, which could be used for the purpose of arriving at a just and reasonable compensation, is 13 in terms of the chart given in the Second Schedule. Therefore, the total compensation, which is payable, comes to Rs.9,36,000/-(Rupees Nine lakhs and thirty six thousand only). Added, thereto, would be the amount, which is awarded by the High Court towards funeral expenses and loss of love and affection. Therefore, the total compensation, which is payable to the appellant is Rs. 9,56,000/- (Rupees nine lakhs and fifty six thousand only). It is needless to state that the balance amount, which is to be paid, in terms of this order, would carry an interest of 7½ % from the date of application till payment.

In terms of the aforesaid order, the appeal stands disposed of.

.....J
(Dr. MUKUNDAKAM SHARMA)

.....J
(ANIL R. DAVE)

NEW DELHI,
JANUARY 14, 2011

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ITEM NO.33

COURT NO.14

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).8028/2006

(From the judgement and order dated 13/09/2005 in
29/2001 of The HIGH COURT OF H.P AT SHIMLA) FAO No.

BALWINDER SINGH

Petitioner(s)

VERSUS

SHIV RATAN & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP and with prayer for
Interim Relief and Office Report)

Date: 14/01/2011 This Petition was called on for hearing
today.

CORAM :

HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA

HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Mr. Vikas Upadhyay, Adv.
 Mr. B.S. Banthia, Adv.

For Respondent(s) Mr. Parmanand Gaur, Adv.
 Mr. Dipak K. Nag, Adv.
 Mr. Debo Pawa Roy, Adv.

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

Leave granted.

The appeal is disposed of in terms of the signed

order.

(NEELAM GULATI)
SR.P.A.

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(RENU DIWAN)
COURT MASTER

(Signed order is placed on the file)