

The mother and Daughter were contesting the case just to get justice and maintainability amount as compensation on the death of her husband.

[Case Brief] Suba Singh & Anr. V/s Davinder Kaur & Anr.

Case name: Suba Singh & Anr. V/s Davinder Kaur & Anr.

Case number: Civil Appeal No. 5197 Of 2003.

Court: Hon'ble Supreme Court of India.

Bench: J. Aftab Alam
J. R.M. Lodha

Decided on: 6 July 2011

Relevant Act/Sections: Fatal Accident Act,1846
Indian Penal Code,1860
Arms Act,1959

➤ **BRIEF FACTS AND PROCEDURAL HISTORY:**

1. Surinder Singh was 25-year-old when died, he was a peasant and a motor vehicle driver by vocation. As a professional driver, he was in private service of certain persons. He also used to help his father in agricultural operations and his income from all the sources was about Rs.16,000/- per annum.
2. That on July 1, 1991 Surinder Singh, deceased person died due to the gunshot injuries. FIR was filed by Balvinder Singh father of the deceased u/s 302, 307, 34 of IPC and u/s 25, 27 of Arms act.
3. On 16 November 1991, the case was filed on behalf of widow and 4 yrs old daughter of the deceased against the defendant. Appellant claiming damages of Rs.3 lakh. In the plaint, it was alleged that Suba Singh and his son Shingara Singh had committed the murder of Surinder Singh. Shingara Singh came to the place of occurrence armed with the licensed gun of his father and urged by him, he fired a shot killing Surinder Singh on the spot. At the time of death, the age of Surinder Singh was about 25 years.

4. Surinder Singh was claiming for common wall of their houses and meanwhile he started throwing brickbats on defendants named as Suba Singh and Shingara Singh in relation to father and son respectively. Suba shot Surinder with his licensed gun resulting in his death.
5. That the widowed wife got married to his younger brother in 1998 and had 2 children with him.
6. The procedural history is as follows: -
 - First case was filed on 16 November 1991 on behalf of widow and 4 yr old daughter claiming damages of Rs 3 Lakh as they are dependent.
 - Accused were tried and convicted by ASJ during the pendency of case on 6 March 1992, Son was acquitted of all charges and Father was found guilty of 304(i) of IPC as they have exceeded the right of private defense and sentenced him 10 years of rigorous imprisonment and fine of Rs 50,000.
 - Same matter has gone to High Court, the appeal was allowed and held both the accused with Life Imprisonment.
 - On 27 November 1999, Civil Judge of Sirsa awarded them with Rs 3 Lakh compensation with 12% interest per annum from date of filing of suit.
 - Appellant filed an appeal before District Judge stating that Compensation amount should be reduced to Rs 2 Lakhs. On 27 November 1999, Civil Judge of Sirsa awarded them with Rs 3 Lakh compensation with 12% interest per annum from date of filing of suit.
 - Appellant filed an appeal before District Judge on 7 March 2002, stating that Compensation amount should be reduced from Rs 3 Lakh to Rs 2,32,700 being the interest amount unchanged.
 - Appellant took the Second Appeal in High Court on but got dismissed by impugned judgement & order Dated: 3 October 2002 as it does not raise any substantial question of law.
 - The matter goes to Supreme Court by way of Special Leave Petition.

➤ **ISSUE BEFORE THE COURT:**

1. Whether the Special Leave Petition for compensation of damages and deciding the matter on the criminal matter on the criminal liability of the accused person is maintainable or not?

➤ **RATIO OF THE COURT**

1. The contention made on behalf of the appellants is fully answered by clauses (b) and (c) of sub-section (1) and sub-section (5) of section 357 of the Code. In those provisions there is a clear and explicit recognition of a civil suit at the instance of the dependents of a person killed, against his/her killers. In sub-section (1)(c) of section 357 there is clear indication that apart from the punishment of fine, the person convicted of any offence of having caused the death of another person or of having abetted the commission of such an offence may also be liable to face a civil action for damages under the Fatal Accidents Act, 1855 in a suit for damages and sub-section (5) of section 357 of the Code makes it all the more clear by stipulating that at the time of awarding compensation in a subsequent civil suit relating to the same matter the court shall take into account any sum paid or recovered as compensation under that section.
2. The court observed that It is a matter of grave concern that such sensitive matters like payment of compensation and damages for death resulting from a wrongful or negligent act are governed by a law which is more than one and a half centuries old. Twenty one years ago a Constitution Bench of this Court in *Charan Lal Sahu v. Union of India*, (1990) 1 SCC 613, a case arising from the Bhopal Gas Tragedy, had taken note of this antiquated law and in paragraph 168 made the following observations:
The Fatal Accidents Act, on account of its limited and restrictive application, is hardly suited to meet such a challenge. We are, therefore, of the opinion that the old antiquated Act should be drastically amended or fresh legislation should be enacted which should, inter alia, contain appropriate provisions in regard to the following matters.
3. In the facts of the case, we are satisfied that simple interest at the rate of 6% per annum from the date of the filing of the suit till payment would meet the ends of justice. the court accordingly, modify and reduce the rate of interest to 6% per annum.
4. It was observed that the Petitioner No. 1 got free from the liabilities as she got married to the deceased younger brother and had 2 children with him.

➤ **DECISION HELD BY COURT:**

1. The Special Leave Petitions stands dismissed as the court observations have gone so far unheeded and told Union Government would at least now take note of the urgent need to bring a contemporaneous and comprehensive legislation on the subject and proceed to act in the matter without any further delay and the Rate of Interest is decided @6% per annum from filing of suit.