

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.3090 of 2002

Date of decision: 28th January, 2015

Meena Kumari and others

... Appellants

Versus

M/s Mohan Singh Sohan Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Nitin Goyal, Advocate for
Mr. Sanjiv Gupta, Advocate
for the appellants.

Respondents No.1 and 2 – ex parte.

Mr. Ravinder Arora, Advocate
for the insurer/respondent No.3.

Service of respondents No.4 to 7 – dispensed with.

FATEH DEEP SINGH, J.

The appeal is directed against the impugned Award dated 05.10.2001 of learned Motor Accident Claims Tribunal, Patiala whereby the Tribunal has awarded a sum of ₹1,20,000 as compensation for the death of Ram Bahadur deceased for which the claimants have sought enhancement.

Upon hearing Mr. Nitin Goyal, Advocate appearing on behalf of Mr. Sanjiv Gupta, Advocate for the claimant/appellants and Mr. Ravinder Arora, Advocate for the insurer/respondent No.3.

Findings of the learned Tribunal on issue No.1 have attained finality as the same have never been challenged that the accident was due to rash and negligent driving of the offending truck bearing registration No.PB-11D-9357 by its driver respondent Piara Singh. The learned Tribunal while adjudicating on issue No.2 keeping in view the unrebutted evidence led by the claimants has considered the post mortem report Ex.P3 and thus age of the deceased to be 58 years. It is also well entrenched in evidence that the deceased as per the salary certificate Ex.P1 was working as a Watchman with a private company M/s Hindustan Wire Products Limited getting ₹3,235 per month. As has been argued by appellants' counsel, the learned Tribunal has wrongly deducted 1/3 out of these earnings for the own upkeep and maintenance of the deceased. No doubt, the deceased has left behind three dependents consisting of widow and two sons and keeping in view that being a mere Watchman this deduction is certainly on the higher side and which could not be controverted by the other side. Keeping in view the socio economic status it can be safely assumed that the deceased in all eventuality must be contributing ₹2,800 per month to the running of the household and thus, annual dependency comes to ₹33,600. Keeping in view age of the deceased multiplier of 9 needs to be applied whereas the learned

Tribunal has wrongly applied multiplier of 5 contrary to the law laid down in '**Sarla Verma & others v. Delhi Transport Corporation & another**' reported in **2009(6) SCC 121** and therefore, compensation amount comes to ₹3,02,400.

Besides this, the family must have spent money on the last rites and ceremonies of the deceased, wife has lost her husband and needs to be compensated for the loss of consortium, children have lost their father, a source of love and affection as well as protection for the whole family and under all these conventional heads by some amount of guesswork and hypothetical assessment an amount of ₹2.00 lacs is awarded to the claimants whereas learned Tribunal has failed to grant any compensation under these heads. Thus, from it all stands highlighted that the learned Tribunal has erred in evaluating the compensation amount which has been undervalued contrary to the object of the Act which is more of a welfare nature. Therefore, total compensation comes to ₹5,02,400 (rupees five lacs two thousand four hundred).

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Keeping in view the relative requirements of the claimants, it would subserve the ends of justice if 60% of the total compensation is granted to the widow of the deceased and 20% each to the grown-

up sons. Rest of the stipulations laid down by the Tribunal need not be disturbed.

In view of these discussions, the impugned Award is modified and the appeal stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

January 28, 2015
rps