

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.1365 of 1993

Date of Decision: 31.03.2015

Jaswant Kaur and another

..... APPELLANTS

VERSUS

Jagwinder Singh and another

..... RESPONDENTS

PRESENT: - Mr. Gurcharan Dass, Advocate
for the appellants.

Mr. Rohit Goswami, Advocate for
Mr. Vinod Chaudhri, Advocate
for respondent No.2.

CORAM: **HON'BLE MR. JUSTICE SHEKHER DHAWAN**

- 1) Whether Reporters of the local papers may
be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in
the Digest?

SHEKHER DHAWAN, J.

The claimants have challenged the award of
Motor Accident Claims Tribunal, Ludhiana (hereinafter
referred to as 'the Tribunal') dated 19.05.1993 whereby the
Tribunal awarded a sum of ₹1,68,000/- on account of death
of Mohinder Pal Singh.

Brief facts of the case that on 05.07.1992, Mohinder Pal Singh (since deceased) was coming back from Gurudwara after paying obeisance. He was driving scooter No.PB-10F 5223. At about 9.30 A.M., when he reached near Gurudwara Alamgir Chowk, Car bearing registration No.CH-2543 came from the opposite direction. The said car was being driven in a rash and negligent manner and struck against the scooter of Mohinder Pal Singh. He and his wife sustained injuries. Both of them were taken to C.M.C. Hospital, Ludhiana. Mohinder Pal Singh was declared dead. The matter was reported to the police on the same day. As per post-mortem report, the age of Mohinder Pal Singh was 29 years. He was carrying on the business of manufacturing of cardboard boxes and the appellants claimed that the income of the deceased was ₹3,000/- per month and all the claimants were dependent upon the income of the deceased.

The respondents contested the claim petition thereby denying the averments of the claim petition.

'The Tribunal' after considering the material and evidence available on file, awarded compensation of ₹1,68,000/- along with interest @ 12% per annum.

Being dis-satisfied with the amount of compensation awarded in this case, the appellants have

come to this Court by way of the present appeal.

Mr. Gurcharan Dass, learned counsel for the appellants took the plea that 'The Tribunal' has not considered the real income of the deceased. Mohinder Pal Singh was a skilled worker and was earning ₹3,000/- on the date of accident. However, 'The Tribunal' has taken the income to be ₹12,00/- per month. So, the amount of compensation be enhanced accordingly.

Learned counsel for the appellants also took the plea that as per law laid down by Hon'ble Supreme Court in **Rajesh and others Vs. Rajbir Singh and others**, 2013(9) SCC 54, appellants are entitled to recover a sum of ₹1 lac on account of consortium and a sum of ₹25,000/- towards funeral expenses and transportation expenses.

Learned counsel for the appellants also took the plea that Sarvjit Kaur, unmarried sister of Mohinder Pal Singh was also dependent upon the income of the deceased and she was also entitled to seek compensation but nothing has been awarded to her. So, the amount of compensation be enhanced suitably.

While arguing on this point, Mr.Vinod Chaudhri, Advocate representing Oriental Insurance Company Ltd. took the plea that the income of the deceased has been rightly taken keeping in view the date of accident which is

05.07.1992 in this case. More so, the income of the deceased was not proved in any way. 'The Tribunal' has already awarded 'just compensation' in the case. As regard to payment of consortium and funeral expenses as per law laid down by Hon'ble Supreme Court in case of **Rajesh and others Vs. Rajbir Singh and others (supra)**, the pronouncement from Hon'ble the Supreme Court was in the year 2013 only whereas the present award was pronounced in the year 1992 and was relating to accident having taken place on 05.07.1992. At that time, there was no such mandate of law that minimum consortium is to be awarded ₹01 lac or minimum amount of compensation to be awarded for funeral expenses and travelling expenses should be ₹25,000/-. So the claim petition is without any merit and the same be dismissed.

Having considered the rival contentions raised by learned counsel for the parties and taking the case from the facts which are not much disputed that Mohinder Pal Singh died because of injuries having been sustained in motor vehicle accident, which took place on 05.07.1992. The deceased was running M/s J.P. Box Factory and his income has been claimed to be ₹3,000/- per month. The Tribunal had rightly come to the conclusion that there was no evidence available on the file to prove the income of the

deceased and, as such, his income was taken to be ₹12,00/- per month. There being no contrary material evidence available at this stage to come to the conclusion that the Tribunal has not taken the correct income of the deceased, no interference is required on that point. The adequate multiplier was applied in this case keeping in view the fact that the age of the deceased was just 29 years as per post-mortem. So, the appellants are not entitled to enhancement under these heads.

As regard to the plea taken by learned counsel for the appellants that unmarried sister was one of the claimants and nothing has been awarded. However, there is absolutely no evidence that Sarvjit Kaur, being unmarried sister of deceased Mohinder Pal Singh was actually dependent upon him. Hence, no amount of compensation was awarded to her and as such the present appeal filed by her does not deserve any merit.

As regard to awarding of consortium and funeral expenses, the law was laid down by Hon'ble Supreme Court in **Rajesh and others Vs. Rajbir Singh and others (supra)** in the year 2013 only and the same amount of compensation cannot be awarded in a case whereas the accident had taken place in the year 1992. Still, the claimants are entitled to receive some amount of

compensation on account of consortium as one of the claimants is widow of the deceased and other is mother of the deceased. The amount of compensation on account of consortium is assessed to be ₹50,000/- in the case and the claimants are entitled to receive funeral expenses and transportation expenses which are assessed to be ₹15,000/-. As such, the appellants shall be entitled to enhancement of ₹65,000/- (₹50,000/- on account of consortium and ₹15,000/- on account of funeral expenses and transportation charges). The enhanced amount of compensation shall be deposited within a period of one month, failing which the appellants shall be entitled to recover the same amount along with interest @ 9% per annum from today.

The appeal is party allowed in the aforesaid terms.

(SHEKHER DHAWAN)
JUDGE

March 31, 2015
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