

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

**FAO No.638 of 1994 (O&M)
Date of Decision: September 14, 2015.**

Smt. Sunita Devi and others

.....APPELLANT(s).

VERSUS

Darshan Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Nitin Goel, Advocate for
Mr. Sanjiv Gupta, Advocate
for the appellant (s).

Mr. Vikas Mohan Gupta, Advocate
for respondent No.3.

SURINDER GUPTA, J.

This appeal has been filed against the award dated 04.08.1994 passed by Motor Accident Claims Tribunal, Karnal (later referred to be as the Tribunal) whereby compensation for the death of Ravi Raman, aged 22 years in a motor accident to the tune of ₹98,500/- was allowed.

In the accident alleged to have taken place on 29.01.1992 at 7.15 P.M. involving a four wheeler bearing registration No. HR-01-9675 and PEPSU Roadways bus bearing registration No.PB-11-9059 (later referred to as the offending vehicle), Ravi Raman and Rameshwar Dass, who were on four wheeler, lost their lives. Four wheeler was being driven by Ravi Raman and Rameshwar Dass had taken a lift. Near G.V. Rice Mills, Nilokheri Road,

the offending vehicle came from the side of Taraori and hit the four wheeler on the wrong side of the road.

In the written statement filed on behalf of respondent No.1, driver of the offending vehicle, the accident was admitted but it was alleged that same was caused due to rash and negligent driving of four-wheeler by deceased Ravi Raman.

Respondent No.3 United India Insurance Company in its separate written statement pleaded that the insurance cover note issued to the PEPSU Roadways had been cancelled, though its cancellation was stayed by the Civil Court.

The Tribunal concluded that the accident had taken place due to the negligence of driver of both the vehicles i.e. four wheeler as well as the bus. While calculating the quantum of compensation, the salary of deceased Ravi Raman was taken as ₹1,500/- per month and after applying deduction of 1/3rd towards his personal expenses, a multiplier of 16 was applied. The funeral expenses were allowed to the tune of ₹5,000/-. The total amount of compensation worked out as Rs.1,97,000/- was then apportioned due to the contributory negligence of both the vehicles and claimants were allowed compensation as ₹98,500/-.

Two separate claim petitions were filed by dependants of Ravi Ram and Rameshwar Dass, which were decided by the common award dated 04.08.1994. The dependents of Rameshwar Dass filed FAO-2475-1994, which was decided on 24.07.2006 and the finding of the Tribunal that the accident had taken place due to the contributory negligence of four wheeler and bus were reversed. Relevant para of the above judgment reads as

follows:-

“Keeping in view the statement of Phool Singh, who is an independent witness and natural witness, the findings of the Tribunal on the issue of contributory negligence does not appear to be correct. Phool Singh has categorically stated that offending bus had struck against the right side of the four-wheeler. It is, thus, well proved that the accident had taken place due to rash and negligent driving of the offending bus. Accordingly, the findings of the Tribunal on the issue of contributory negligence are set aside.”

The matter regarding the manner of the negligence in accident has already been set at rest in the connected appeal (FAO-2475-1994), as such, the only enhancement of compensation has been pressed in this appeal.

The Tribunal has rightly applied deduction of 1/3rd of the income of the deceased towards his personal expenses. As the deceased had left behind wife, a daughter and parents, this, as such, call for no interference. The deceased was 22 years of age and as per the observations in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009) 6 SCC 121***, multiplier to be applied in this case is 18 instead of 16 as applied by the Tribunal. The deceased was self employed. As per the observations of Hon'ble Apex Court in ***Rajesh and others Vs. Rajbir and others (2013) 9 SCC 54***, and ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447***, addition of 50% of income of the deceased towards future prospects is to be allowed. The Tribunal has not allowed any compensation towards the loss of consortium, loss of love and affection and loss to the estate. Keeping in view the fact that the accident

had taken place in the year 1992, the compensation on these three counts is allowed @ ₹25,000/- each The compensation to which the claimants are entitled to, works out as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income	₹1500 per month
(ii)	50% of (i) above to be added as future prospects	(₹1500+ ₹750)= (₹2250 per month)
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	(₹2250-₹750)= ₹1500 per month
(iv)	Compensation after multiplier of 18 is applied	(₹1500X12X18)= ₹324000
(v)	Loss of consortium	₹25000
(vi)	Loss of love and affection, care and guidance for minor daughter	₹25000
(vii)	Loss to the estate	₹25000
(viii)	Funeral and transportation expenses	₹5000
<i>Total</i>		₹404000

This appeal is accepted. The award of the Tribunal is modified and the appellants-claimants are allowed compensation of ₹4,04,000/- for the death of Ravi Raman. The above amount will carry interest @ 7.5% per annum from the date of filing of the petition till actual realization. Apportionment and liability to pay the amount of compensation shall also be as per the impugned award, however, subject to outcome of RSA No.1138 of 1998. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

September 14 , 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE