

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

FAO No. 304 of 2002(O&M)

Date of Decision: August 28 , 2015.

Pushp Lata and another

..... APPELLANT (s)

Versus

Delhi State and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Ashok Gupta, Advocate
for the applicant/appellants.

Mr. V.Ramswaroop, Advocate
for the respondents.

LISA GILL, J.

CM No.14653-CII of 2015

Application is for fixing the appeal for hearing.

Matter had been referred to the Lok Adalat but no settlement could be arrived at between the parties. Learned counsel for the respondents has no objection in case the appeal is fixed for arguments.

Application is accordingly allowed.

Learned counsel for the parties are *ad idem* that the main appeal be taken up for hearing today itself.

Accordingly main appeal is taken up for hearing.

FAO No.304 of 2002

Present appeal has been preferred by the claimants who are the

widow and son of the deceased – Jamna Dass praying for enhancement of the compensation awarded on account of death of Jamna Dass by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as, the 'Tribunal') vide awarded dated 11.09.2001.

Facts as revealed in the claim petition are that, Jamna Dass aged 60 years was proceeding on a scooter on 26.09.1999 when a bus bearing registration No.DL-1PA-3246 came from behind and hit his scooter. Jamna Dass fell down and received serious injuries. He was removed to the hospital but succumbed to his injuries.

Deceased – Jamna Dass was a retired Sub Divisional Officer and at the time of accident was employed as a Technical Consultant i.e., a supervisory job with various firms. Offending bus was of Delhi Transport Corporation and not insured.

Learned Tribunal on considering the entire facts and circumstances of the case as well as the evidence on record, held that the accident in question had taken place due to rash and negligent driving of bus No. DL-1PA-3246 by respondent No.3 – Bijender Singh. Income of the deceased was taken to be ₹4,500/- per month. Deduction of 1/4th was made towards personal expenses and a multiplier of 5 was applied. ₹2,000/- on account of funeral expenses and ₹2,500/- on account of loss of consortium was awarded by the Tribunal. Thus, the claimants were held entitled to a total amount of compensation of ₹2,07,000/-.

Learned counsel for the appellants-claimants submits that an extremely meagre amount of compensation has been awarded which is liable to

be enhanced. Income of the deceased at the time of accident was much more than assessed by the Tribunal. Appellants-claimants are also entitled to enhanced compensation on account of loss of consortium and funeral expenses. Nothing has been awarded on account of loss of love and affection.

Per contra, learned counsel for respondents submits that fair and just compensation has already been awarded by the Tribunal which calls for no further enhancement.

I have heard learned counsel for the parties and perused the available record.

There is no dispute regarding the factum of accident having been caused due to rash and negligent driving of bus No. DL-1PA-3246 by respondent No.3 – Bijender Singh and liability of the respondents.

There is no evidence which points to an income higher than ₹4,500/- per month being earned by the deceased at the time of the accident. No reliance can be placed on the certificate adduced by the witness, PW4 Manish Kumar, an employee of M/s Harbhagwan Harbhajan Lal to conclude that the deceased was receiving an amount higher than ₹4,500/- per month. There is nothing on record to prove the quantum of gross receipts, 0.5% of which the deceased is alleged to have received. Therefore, finding of the Tribunal on this count is affirmed. Deduction of 1/4th has been rightly applied by the Tribunal. Annual dependancy is therefore, correctly assessed at ₹40,500/- (₹3,375 x 12).

However, as per dictum of Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3)**

RCR (Civil) 77 a multiplier of 9 is required to be applied where the deceased is 60 years old. Therefore, a multiplier of 9 instead of 5 is to be applied in this

case. Amount of compensation would therefore be ₹3,64,500/- (₹3,375 x 12 x 9).

Appellants-claimants are also entitled to ₹10,000/- as funeral expenses instead of ₹2,000/- and ₹50,000/- instead of ₹2,500/- on account of loss of consortium. Compensation to the tune of ₹25,000/- is also awarded on account of loss of love and affection.

Appellants-claimants are, thus, entitled to enhanced amount of compensation as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Loss of dependancy (₹3375x12x9)	₹3,64,500/-
2.	Funeral expenses	₹10,000/-
3.	Loss of consortium	₹50,000/-
4.	Loss of love and affection	₹25,000/-
	Grand Total	₹4,49,500/-

The compensation already awarded by the Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the enhanced compensation at the rate of 7.5% per annum from the date of filing of the petition till realization.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

August 28 , 2015.
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