

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3263 of 1996 (O&M)

Date of Decision: January 14, 2015

Bimla Rani and others

...Appellant(s)

Versus

Rakesh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. B.S. Walia, Advocate
for the appellant(s).

Mr. R.S. Sangwan, Advocate
for respondent nos.1 & 2-Cross Objectors.

Mr. Ashwani Talwar, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

1. This appeal is filed by the claimants seeking modification of the award and enhancement of compensation of the award dated 20.07.1996, passed by the Motor Accident Claims Tribunal, Karnal (here-in-after referred to as the Tribunal).

2. Briefly referring to the facts. An accident took place on 03.08.1994 at 1:00 AM on G.T. Road, Nilokheri. Jeewan Singh was driving his car and was proceeding from Delhi to Patiala. A truck bearing registration no. HYR-1628 was parked on the metalled road ahead of Nilokheri towards Pipli. Some vehicles were coming from the opposite direction. Jeewan Singh could not see the truck parked on the metalled road and the car struck against the stationary truck resulting in his death and injuries to the occupants of the car. Several claim

petitions were filed which were consolidated and a common award was passed. This appeal only relates to the death of Jeewan Singh.

3. The Tribunal held both the vehicles and their drivers responsible and apportioned the liability in the ratio of 50 – 50. Jeewan Singh was 45 years old. His income was taken at Rs.2000/- per month. His personal dependency was taken at Rs.700/- per month. Applying the multiplier of 16, the amount was calculated at Rs.2,49,600/-. The liability of the truck driver and the insurance company was placed at 50% and they were directed to pay Rs.1,24,800/-.

4. I have heard learned counsel for both the sides.

5. The submission made on behalf of the appellants was with respect to the finding under which the liability to pay the compensation was held to be of both the drivers but I find that there is no reason to take a different view. The accident had taken place at 1:00 AM on the G.T. Road. The truck was parked on the road without any lights. The driver of the car failed to notice the truck as the lights of the vehicles coming from the opposite side blinded him and he struck the car against the stationary truck. The finding is affirmed.

6. The counsel for the appellants had urged that the Tribunal had taken the income of the deceased at Rs.2,000/- per month when they had pleaded that he was earning Rs.2,500/- per month and no amount had been added towards future prospects and they were entitled to compensation for funeral expenses, loss of consortium and loss of estate.

7. The deceased was 45 years old and the multiplier of 16 had been applied which should have been 14. No change in the income should be made as there was no evidence regarding the income.

Considering the fact that the accident had occurred in 1994, the income of Rs.2,000/- per month was also on the higher side.

8. I would make no modification so far as the income is concerned. In view of ***Rajesh and others Vs. Rajbir and others (2013) 9 SCC 54***, an addition of 30% should be made towards future prospects. Making an addition of Rs.600/-, the income would come to Rs.2,600/- per month and after deducting 1/4th towards personal expenses, the amount available for the family would come to Rs.1,950/- per month and the annual contribution would come to Rs.23,400/-. Since the deceased was 45 years of age, the multiplier of 14 would be applicable and the compensation would come to Rs.3,27,600/-. To this, an addition of Rs.5,000/- is made on account of loss of consortium, a sum of Rs.5,000/- is added for loss of estate, a sum of Rs.5,000/- is added for loss of love and affection for the children and a sum of Rs.2,500/- is added on account of funeral expenses. The total compensation would work out to Rs.3,45,100/-. The insurance company of the truck would have to pay half of the amount which comes to Rs.1,72,550/-. The Tribunal had awarded a sum of Rs.1,24,800/- which would be deducted and the remaining amount would be paid within two months, failing which the appellants would be entitled to interest @ 6% from the date of filing of the appeal till realization.

**(ANITA CHAUDHRY)
JUDGE**

January 14, 2015
sunil