

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5179 of 2003 (O&M)
Date of Decision: July 09, 2015

Sarabjit Kaur and others

...Appellants

Versus

Sheel Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashit Malik, Advocate
for the appellants.

Mr.R.C.Kapoor, Advocate
for respondent No.3.

INDERJIT SINGH, J.

Appellants-claimants Sarabjit Kaur, Gurpreet Kaur, Pritam Kaur, Major Singh and Devinder Singh have filed this appeal against Sheel Kumar, driver, Jagbir Singh, owner and National Insurance Company Limited, Insurer of truck bearing registration No.HR-46C-2022 respondents, challenging the impugned Award dated 15.09.2003 passed by learned Motor Accident Claims Tribunal, Fast Track Court, Karnal (hereinafter referred to as 'Tribunal'), for enhancement of the compensation, which was awarded by the Tribunal.

The brief facts of the case are that claimants-appellants filed claim petition against respondents under Sections 166 and 140 of the Motor Vehicles Act, 1988, on account of death of Tirath Singh in

a motor vehicular accident. It is mainly stated in the claim petition that on 09.03.2001, Tirath Singh along with Binder Singh @ Yadvinder Singh and Manjit Singh was going to Delhi Airport in car bearing registration No.DBA-8541 being driven by Binder Singh @ Yadvinder Singh at a moderate speed on the left hand side. At about 6.00 P.M., a truck bearing registration No.HR-46C-2022 (offending truck) which was being driven by its driver Sheel Kumar at a very high speed, rashly and negligently in a zig-zag manner, came from behind and struck against the car and turned turtle on the car. Tirath Singh and Binder Singh died on the spot and Manjit Kumar received injuries. FIR was got registered. The claimants-appellants prayed that compensation of ₹10 lacs be awarded on account of death of Tirath Singh.

After framing of the issues and after going through the evidence on record, the Tribunal awarded compensation of ₹3,75,000/- along with interest @ 9% per annum from the date of filing of the claim petition till its realization vide Award dated 15.09.2003.

Aggrieved from the above-said Award, present appeal has been filed by the claimants for enhancement of compensation.

Learned counsel for respondent No.3-Insurance company appeared and contested the appeal.

At the time of arguments, learned counsel for the appellants-claimants argued that the income of deceased as assessed by the Tribunal is on lower side. He next argued that as per law laid down by the Hon'ble Supreme Court in **Smt.Sarla Verma and**

others vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77, multiplier of 16 should have been applied. He next argued that no future prospects have been given. The compensation on the ground of loss and consortium should have been granted @ ₹1 lac, regarding funeral expenses @ ₹25,000/-, ₹10,000/- as loss for estate and further ₹1 lac should be given on the ground of love and affection to the minors.

After hearing learned counsel for the parties and after going through the record, firstly as regarding the income I find that as there is no cogent documentary evidence on record as to how much amount the deceased was earning by selling milk, the Tribunal has taken the income of deceased as ₹3000/- per month. This fact is also taken into consideration that the accident has taken place in the year 2001 and keeping in view the evidence on record, the Tribunal has correctly taken this income of ₹3000/- in the absence of any cogent document on record.

As regarding the fact that the deceased was to go to Moscow and to earn ₹30,000/- per month, I find that no cogent evidence has been placed on the record. Merely placing on the record the copy of the passport is not sufficient to prove that the deceased was to go to Moscow or any assignment was given to him @ ₹30,000/- per month. Therefore, the income assessed by the Tribunal is correct.

Further, I find that as per the law laid down by the Hon'ble Supreme Court in ***Rajesh and others vs. Rajbir Singh and others***,

2013(3) RCR (Civil) 170, the claimants-appellants are entitled to ₹25,000/- as funeral expenses, ₹1 lac for loss of consortium and further 50% should be added as future prospects. The Three Judges' Bench of Hon'ble Supreme Court in the latest judgment in Civil Appeal No.4497 of 2015 (arising out of SLP(C) No.8362 of 2013 decided on 15.05.2015, granted 50% addition to the actual income of the deceased, while computing future prospects, who was below than 40 years of age. Therefore, the claimants-appellants are entitled to 50% future prospects, compensation on the ground of loss of love and affection to each minor, loss of consortium, loss of estate and funeral expenses. Further, I find that as per the age of the deceased, who was 35 years old, the multiplier of 16 should have been applied but the Tribunal has applied multiplier of 15. Tirath Singh was stated to be of 35 years and as per **Smt.Sarla Verma's case (supra)**, upto the age of 35, multiplier of 16 should be applied.

Therefore, in view of the above discussion, total compensation is granted as under:-

Income	₹3,000/- per month
50% future prospects	₹3,000/- + ₹1,500/- = ₹4,500/-
Dependency by deducting 1/3 rd	₹4,500/- - ₹1,500/- = ₹3,000/-
Annual dependency	₹3,000/-x 12 = ₹36,000/-
Multiplier of 16	₹36,000/- x 16 = ₹5,76,000/-
Funeral expenses	₹25,000/-
Loss of consortium	₹1,00,000/-
Loss of love and affection to each minor	₹1,00,000/-x 2= ₹2,00,000/-
Loss of estate	₹10,000/-
Total compensation	₹9,11,000/-

In view of above, the appellants-claimants are entitled to total compensation of ₹9,11,000/- along with the same interest on the enhanced amount as awarded by the Tribunal. The enhanced amount be disbursed to the claimants proportionately as per Award passed by the Tribunal.

Therefore, finding merit in the present appeal, the same is allowed accordingly.

July 09, 2015
Vgulati

(INDERJIT SINGH)
JUDGE