

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 324 of 2000 (O&M)

Date of decision : September 09, 2015

Charanjit Kaur and othersAppellants

Versus

Jagjit Singh and anotherRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Hitesh Ghai, Advocate
for the appellants.

Mr. Ankit Aggarwal, Advocate for
Mr. Anupam Singla, Advocate
for respondent No. 2.

LISA GILL, J.

Present appeal has been preferred by the claimants for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as the 'Tribunal') vide award dated 03.11.1999 on account of death of Daljeet Singh. Claimants are the widow, minor child and mother of the deceased.

Factual position as revealed in the claim petition is that Daljeet Singh (deceased) along with his brother-in-law Narmail Singh son of Labh Singh were proceeding towards village Balsua on scooter No. PB-39-2295 on 10.07.1997 to meet their sister's husband. Narmail Singh was driving the scooter while Daljeet Singh

his wife's brother (deceased) was the pillion rider. When they reached ahead of Jhanjheri at about 10.30 a.m. a stray buffalo came on the road. Despite Narmail Singh having taken his scooter to one side to save the buffalo, the scooter struck against buffalo and they both fell down. In the meantime, offending bus of Pepsu Road Transport Corporation being driven at very high speed in a rash and negligent manner by respondent No. 1 – Jagjit Singh struck against them due to which Daljeet Singh died at the spot. Both Narmail Singh and Daljeet Singh were extricated from beneath the bus by the passengers of the bus. Post mortem of Daljeet Singh was conducted at Civil Hospital, Kharar. Narmail Singh was also admitted there. FIR, Ex. P1 was registered under Sections 279, 337, 338, 304 IPC against respondent No. 1- Jagjit Singh.

Claim petition under Section 166 of Motor Vehicles Act was preferred by the claimants claiming compensation on account of death being caused by rash and negligent driving of the offending bus by respondent No. 1. Claim was contested by the respondents.

Following issues were framed by the learned Tribunal:-

1. Whether the claimants are the legal representatives of Daljit Singh? OPP
2. Whether Daljit Singh died in the motor vehicle accident on 10.07.1997 near village Jhanjheri by respondent by rash and negligent driving of Bus No. PB-11-A/9251 belonging to PRTC Chandigarh depot? OPP.
3. To what amount of compensation the claimants are entitled to and from whom? OPP.
4. Relief.

Learned Tribunal on appreciation of evidence on record

held that Daljeet Singh lost his life in the vehicular accident on 10.07.1997 which was caused due to rash and negligent driving of the offending bus by respondent No. 1.

Total sum of ₹1,82,800/- was awarded to the claimants. Income of the deceased was taken to be ₹1800/- per month i.e. of an ordinary labourer in the absence of evidence to show that he was earning ₹9000 per month being engaged in agriculture and diary farming. Multiplier of 12 was applied and loss of dependancy worked out at ₹1,72,800/-. A sum of ₹10,000/- was awarded on account of funeral expenses.

Learned counsel for the appellant vehemently argues that the deceased Daljeet Singh was admittedly 23 years of age. Jamabandi Ex.P3 has been placed on record to show that he was owner of four acres of land. Further nothing has been awarded on account of loss of consortium, loss of love and affection or future prospects. Thus, he prays for enhancement of compensation awarded to the appellants.

Learned counsel for respondent No. 2 vehemently opposes any such enhancement while submitting that reasonable compensation has already been awarded.

I have heard learned counsel for the parties and gone through the record.

There is no dispute regarding the age of the deceased being 23 at the time of the accident. Perusal of jamabandi Ex.P3 reveals that four acres of land stand in the name of Niranjn Singh i.e. father of the deceased. There is no evidence on record to show

that the said land was infact being cultivated by the claimant. It is an admitted position that the said land was never mutated in his favour even if it is presumed that his father is no more. Apart from the absence of any such averment, there is no evidence on record to show that there are no other legal heirs of his father – Sadhu Singh. In this situation, learned Tribunal has rightly assessed his income to be that of a daily labourer i.e. ₹1800/- per month. Number of dependants being three, deduction of 1/3rd has to be effected as per judgement of the Hon'ble Supreme Court in **Smt. Sarla Verma and others versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77, thereby rendering income of the deceased as ₹1200/- per month or ₹14,400/- per annum. However, keeping in view the judgment of Hon'ble Supreme Court in **Rajesh and others versus Rajbir Singh and others** 2013 (3) RCR (Civil) 170 and **Munna Lal Jain and others versus Vipin Kumar Sharma and others** 2015 (6) SCC 347 addition on account of loss of future prospects to the tune of 50% are to be added as deceased was 23 years old at the time of accident. His income is, thus, assessed as ₹2100/- per month (₹1200+₹900) or ₹25,200/- per annum.

Keeping in view the decision in the case of **Sarla Verma** (Supra), multiplier of 18 has to be applied as the deceased was admittedly 23 years of age at the time of accident. Loss of dependancy, therefore, works out to ₹4,53,600/- (₹25,200x18).

Keeping in view the decision of the Hon'ble Supreme Court in **Rajesh's** case (supra) ₹1,00,000/- is awarded on account of loss of consortium and on account of loss of care and guidance for

the minor child a sum of ₹50,000/- is made out. For loss of love and affection in respect to the mother, a sum of ₹50,000/- and on account of funeral expenses a sum of ₹15,000/- is awarded accident being of the year 1997. Total amount of compensation, thus, works out as ₹6,68,600/- are detailed hereunder:-

Loss of dependancy (2100x12x18)	₹4,53,600/-
Loss of consortium	₹1,00,000/-
Loss of care and guidance for minor child	₹50,000/-
Funeral expenses	₹15,000/-
Loss of love and affection for the parents	₹50,000/-
Total	₹6,68,600/-

Amount of compensation already paid shall stand deducted from the amount calculated as above. The appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the award dated 03.11.1999 passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib, present appeal is disposed of.

September 09, 2015
rts

(Lisa Gill)
Judge