

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 2154 of 1999(O&M)

Date of Decision: August 24 , 2015.

Ujjagar Singh @ Jagar Singh and others

..... APPELLANT (s)

Versus

Himachal Road Transport Corporation and another

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. H.S.Sirohi, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.1 – HRTC.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This appeal has been filed by the parents and sister of deceased – Sohan Singh claiming enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Ropar (hereinafter referred to as, the 'Tribunal') vide award dated 01.04.1998.

Brief facts as culled out from the claim petition are that, Sohan Singh, Durga Dass and Palwinder Kaur were travelling in a Maruti Van bearing registration No. DL-2CE-7538 on 28.06.1996 and were proceeding towards Nangal. Sohan Singh was driving the abovementioned Maruti Van with due care

and caution on the left side of the road. When they reached near Bunga Sahib on Ropar-Nangal road at about 2.00 a.m., a bus bearing registration No. HP-42-0709 approached from the opposite side being driven in a rash and negligent manner and struck against the Maruti Van. Resultantly, Sohan Singh and Durga Dass died at the spot and Palwinder Kaur sustained multiple injuries. Injured was shifted to Civil Hospital, Ropar and thereafter, to Oswal Hospital, Ludhiana. Instant claim petition under Section 166 of the Motor Vehicles Act, 1988 was preferred by the claimants for compensation on account of death of Sohan Singh in the abovesaid vehicular accident.

Claim was resisted by the respondents. Following issues were framed by the learned Tribunal:-

- “1. Whether claimant Palwinder Kaur received injuries, Kashmir Singh and Durga Dass died and Maruti Van No.DL-2CE-7538 was damaged due to rash and negligent driving of respondent No.2 while driving bus No.HP-42-0709? OPP
2. Whether claim petitions are bad for non-joinder of necessary parties? OPR
3. Whether claimants are entitled to received compensation? If so, to what extent and from whom? OPP
4. Relief.”

Learned Tribunal on the appreciation of the evidence on record concluded that the accident had taken place due to rash and negligent driving of the offending bus by respondent No.2 – Kashmir Singh.

Sohan Singh (deceased) was a bachelor aged about 22 years. He was working as a driver with Durga Dass on a salary of ₹1,200/- per month. As per PW2 Ujagar Singh, deceased was also engaged in dairy farming and was earning ₹5,000/- per month. Income of the deceased was assessed at ₹1,200/- per month. Multiplier of only eight (8) was applied on the basis of age of the

parents of deceased. Dependency was, thus, worked out at ₹48,000/-. ₹2,000/- was awarded on account of funeral expenses and a total sum of ₹50,000/- was awarded as compensation to the claimants by the Tribunal. Aggrieved therefrom, claimants have preferred the instant appeal.

Learned counsel for the appellant submits that a meagre compensation has been awarded to the appellants-claimants and they are entitled to enhanced compensation. A wrong multiplier has been applied. Appellants-claimants are also entitled to adequate compensation on account of loss of consortium, loss of love and affection as well as necessary addition has to be made in the income keeping in view the loss of future prospects of the deceased.

Learned counsel for respondent No.1 while refuting the said claim specifically argues that funeral expenses and compensation on other counts are to be assessed keeping in view the fact that the accident took place in the year 1996.

I have heard learned counsel for the parties and gone through the available record. Appellant-claimants are indeed entitled to enhanced compensation on various counts.

Income of the deceased has been rightly assessed as ₹1,200/- per month. Learned counsel for the appellants is unable to point out any evidence indicating a higher income being earned by the deceased. Deduction of 50% necessarily has to be effected on account of personal expenses (the deceased being a bachelor) as has been held by Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3)**

RCR (Civil) 77. Application of the multiplier in the present case has to be based on the age of the deceased and not of the parents as has been conclusively held

by the Hon'ble Supreme Court in Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347. Thus multiplier of 18 is to be applied keeping in view the dictum of Sarla Verma's case (supra) as the deceased was admittedly 22 years at the time of accident. An addition of 50% has to be afforded on account of loss of future prospects as well, as has been held by the Hon'ble Supreme Court in Rajesh and others v. Rajbir Singh and others, 2013(3) RCR(Civil) 170(SC). Thus after deduction of 50%, income of deceased is ₹600/- per month. With an addition of 50% on account of loss of future prospects, it is ₹1,200/- per month (₹600+₹600) i.e., ₹14,400/- per annum (₹1,200x12). Applying a multiplier of 18, loss of dependancy is ₹2,59,200/- (₹1,200x12x18). Appellants-claimants are thus entitled to compensation as under:-

<i>Sr.No.</i>	<i>Heads of claim</i>	<i>Amount</i>
1.	Loss of Dependancy (₹1200x12x18)	₹2,59,200/-
2.	Loss of love and affection at the rate of ₹50,000/- to each parent	₹1,00,000/-
3.	Funeral expenses	₹15,000/-
	Total =	₹3,74,200/-

Amount of compensation i.e., ₹50,000/- already paid to the appellants-claimants shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest on the enhanced amount at the rate of 7.5 per cent per annum from the date of filing of petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(LISA GILL)
JUDGE

August 24 , 2015.
'om'