

In the High Court of Punjab and Haryana at Chandigarh

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(1) F.A.O. No.1956 of 2002

.....

Date of decision:8.5.2015

Jasbir Kaur and others

.....Appellants

v.

Sukhdev Singh and others

.....Respondents

....

(2) F.A.O. No.1957 of 2002

.....

Jasbir Kaur

.....Appellant

v.

Sukhdev Singh and others

.....Respondents

....

(3) F.A.O. No.1958 of 2002

.....

Amandeep Singh (minor) through his mother Jasbir Kaur

.....Appellant

v.

Sukhdev Singh and others

.....Respondents

....

**Coram : Hon'ble Mr. Justice Inderjit Singh**

.....

Present: Mr. Shubhankar Baweja, Advocate for the appellants.

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Mr. R.C. Kapoor, Advocate for the respondent-Insurance  
Company-respondent No.3.

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**Inderjit Singh, J.**

This order will dispose of the above mentioned three appeals as the same arise out of the same accident and the same award dated 29.11.2001 passed by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal').

The brief facts of the case are that on 19.1.1999, Kirpal Singh along with his wife Jasbir Kaur and son Amandeep Singh was returning on scooter No.PAP-7875 from Gurudwara Dukhniwaran Sahib, Patiala, towards his house situated in Ghuman Colony, Sirhind Road, Patiala. He was being followed by Dilbagh Singh and Surjit Singh, who were also on scooter. At about 8.45 p.m., when the scooter of Kirpal Singh reached in between Hemkund Service Station and Gita Service Station, truck No.PNS-4823 (hereinafter referred to as 'the offending vehicle') came from Sirhind, which was being driven by Sukhdev Singh-respondent No.1 rashly and negligently and at a high speed. Respondent No.1 could not control his truck and hit the same against the scooter of Kirpal Singh, while coming on the wrong side of the road. Kirpal Singh fell down on the right hand side of the road and suffered injuries on his head and right side of the body. Jasbir Kaur and Amandeep Singh also suffered injuries. Driver of the offending vehicle ran away from the spot. Kirpal Singh, Jasbir Kaur and Amandeep Singh were rushed to Rajindra Hospital, Patiala, where Kirpal Singh died. The accident has been caused due to the rash and negligent driving of

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Sukhdev Singh-driver. FIR has been registered against respondent No.1 and scooter was also damaged badly in the accident. Three claim petitions were filed. The Tribunal awarded compensation in the three claim petitions. Aggrieved against the same, the claimants have filed three appeals for enhancement of the compensation.

Notice of motion was issued in these appeals.

Learned counsel for the Insurance Company appeared and contested these appeals.

Notice to other respondents was exempted as the learned counsel for the respondent-Insurance Company stated that since the liability is not disputed, service upon other respondents may be exempted.

Learned counsel for the appellants argued that the compensation given in the awards passed in the claim petitions are on the lower side and these are liable to be enhanced.

As regards, appeal filed by Jasbir Kaur regarding her injuries, I find that as per evidence on record, Jasbir Kaur injured remained admitted in the Rajindra Hospital, Patiala. There is no permanent disability suffered by Jasbir Kaur claimant. The Tribunal in view of the evidence on record awarded ₹10,000/- for the pain and suffering, ₹5,000/- for medical expenses and ₹5,000/- for special diet. Keeping in view the facts and circumstances that Jasbir Kaur remained admitted in the hospital, the amount awarded by the Tribunal under the head medical expenses is on lower side which is increased to ₹15,000/- in total for medical expenses as well as medical treatment. Therefore, the appeal i.e. FAO No.1957 of 2002 filed by Jasbir

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Kaur relating to her injuries is allowed accordingly by enhancing the compensation from ₹20,000/- to ₹30,000/-. However, the interest awarded by the Tribunal will remain the same.

As regards the injuries suffered by Amandeep Singh, again there is neither any disability certificate nor there is evidence that he suffered any permanent disability. He also remained admitted in the hospital for two days. The Tribunal has awarded compensation of ₹15,000/- for pain and suffering, ₹10,000/- for medical expenses and ₹5,000 for special diet. Total ₹30,000/- compensation has been awarded to him. In view of the evidence on record, I find that no compensation on the ground of attendant has been given. Therefore, I award ₹5,000/- as attendant charges. Further ₹5,000/- is awarded for medical treatment. The compensation awarded by the Tribunal to the extent of ₹30,000/- is enhanced to ₹40,000/-. However, the interest will remain the same as awarded by the Tribunal. Therefore, FAO No.1958 of 2002 filed by Amandeep Singh is allowed accordingly.

As regards the appeal filed by the claimants regarding the death of Kirpal Singh, learned counsel for the appellants in this appeal has not contested the income assessed by the Tribunal. Leaned counsel for the appellants has only argued that there being five claimants, the deduction should be 1/4<sup>th</sup> as per the law laid down by the Hon'ble Supreme Court in Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77. He further argued that the multiplier has been wrongly applied by the Tribunal. Keeping in view the age of Kirpal Singh,

it should have applied the multiplier of 16 instead of 13. Learned counsel for the appellants also argued that neither any funeral expenses have been awarded nor for the loss of consortium and on the ground of loss of love and affection any amount has been awarded.

After hearing learned counsel for the parties and going through the record, I find that the Tribunal has assessed the income of the deceased as ₹7,500/- per month. As there are five claimants, therefore, as per the law laid down by the Hon'ble Supreme Court in Smt. Sarla Verma and others v. Delhi Transport Corporation and another (supra), the multiplier of 16 should have been applied and the Tribunal has wrongly applied the multiplier of 13. Therefore, by making deduction of 1/4<sup>th</sup> and applying the multiplier of 16, the compensation amount comes to ₹5,625 x 12 x 16 = ₹10,80,000/-. As neither funeral expenses nor any amount has been given for the loss of consortium, I find that the claimants are entitled to these amounts as per the law laid down by the by the Hon'ble Supreme Court in Rajesh and others v. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170. Therefore, in view of the law laid down in the above case, I award ₹25,000/- as funeral expenses and ₹1 Lac for the loss of consortium. I further find that no amount on the ground of love and affection has been awarded. Therefore, I further award ₹1 Lac on the ground of love and affection to the children.

Keeping in view the above facts and circumstances, the total amount of compensation comes to ₹13,05,000/-. The amount is enhanced accordingly. The rate of interest will remain same as awarded by the Tribunal. Therefore, FAO No.1956 of 2002 is allowed accordingly. The

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awarded amount be disbursed to appellants-claimants proportionately as per award.

Keeping in view the above discussion, these appeals are allowed accordingly.

May 8, 2015.

**(Inderjit Singh)**  
**Judge**

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