

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.4014 of 2001

Date of decision: 22.12.2015

Amarjeet Singh and others

..... Appellants

Versus

Buta Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

1. *Whether Reporters of the 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?*

PRESENT: Mr. Sandeep S. Majithia, Advocate for the appellants.

Mr. Gaurav Singla, Advocate for
Mr. Vaneet Garg, Advocate for respondent No. 1.

Mr. Pardeep Goyal, Advocate
for respondent No. 3-Insurance Company.

RAMENDRA JAIN, J.

The claimants have approached this Court for modification of the impugned Award dated 17.02.2000, passed by the learned Motor Accident Claims Tribunal, Bathinda (for short 'the Tribunal).

2. Brief facts of the case are that on 25.04.1998, truck bearing No. RJ-31-G-1000, being driven by respondent No. 1-Buta Singh in a rash and negligent manner ran over Balwinder Singh and his wife Baljeet

Kaur, while they were going on their motorcycle bearing No. PB-05-A-3300 along with their minor daughter i.e. appellant No. 3. They were shifted to the Civil Hospital Rampura, where Balwinder Singh and his wife were declared brought dead. The parents of deceased Balwinder Singh and his minor daughter jointly filed claim petition under Section 166 of the Motor Vehicles Act against the respondents claiming compensation of ₹ 13,40,000/- along with interest @ 18% per annum.

3. Upon notice, respondents No. 1 and 2 (driver and owner of the offending truck) in their joint written statement denied the accident as well as negligence of respondent No. 1. Insurance Company-respondent No. 3 taking the similar stand further pleaded exoneration of its liability as respondent No. 1 was not holding a valid and effective driving licence.

4. The learned Tribunal after framing necessary issues and recording evidence to the satisfaction of parties, vide impugned Award granted a sum of ₹ 2,68,800/- as compensation, to the claimants payable by the respondents jointly and severally.

5. Learned counsel for the appellants contended that in the year 1998 in which the accident took place, the daily wages of a casual labourer were not less than ₹ 100/- per day. Balwinder Singh (deceased) was a jeweller. Even in the absence of any evidence, the learned Tribunal ought to have considered his income @ ₹ 200/- per day. The learned Tribunal also ought to have applied the multiplier of 18 considering the age of deceased around 25 years at the time of death. He further contended that the learned Tribunal had also erred in not granting any compensation qua loss of love and affection, funeral expenses etc. In

support of his contentions, learned counsel for the appellants-claimants relied upon **Rajesh and others Vs. Rajbir Singh and others, 2013 (9) SCC 54.**

6. The impugned accident took place on 25.04.1998. Balwinder Singh along with his wife died in the same leaving behind his minor daughter of 09 months and his old aged parents i.e. appellants No. 1 to 3. In the year 1998, the minimum wages of a casual labourer may not be less than ₹ 100/- per day as submitted by learned counsel for the appellants. Hence, I take the income of deceased @ ₹ 3000/- per month. 1/3rd has to be deducted from the aforesaid monthly income of the deceased towards his personal expenses. After deducting 1/3rd, the dependency of appellants upon deceased would come to ₹ 2000/- per month and the annual dependency ₹ 24,000/-. In view of the law laid down by Hon'ble Apex Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77**, multiplier of 18 is applied to the aforesaid annual income/dependency. The amount of compensation comes to ₹ 4,32,000/- (2000 x 12 x 18). Besides this, a sum of ₹ 2 lacs towards loss of love and affection is granted to minor appellant No. 3 who was only 09 months of age at the time of death of her parents in the impugned accident. Further keeping in view the law laid down by the Hon'ble Supreme Court in **Asha Verma and others Vs. Maharaj Singh and others, 2015 (2) RCR (Civil) 520**, a sum of ₹ 25,000/- is also granted to the appellants towards funeral expenses. The learned Tribunal has erred in not granting any compensation under this head. The appellants No. 1 and 2 are also awarded a sum of ₹ 1 lac

i.e. ₹ 50,000/- each under the head loss of love and affection. Thus, the appellants-claimants are entitled to the total compensation as under:-

(i)	Loss of dependency	-	₹4,32,000/-
(ii)	Loss of Love and affection	-	₹ 2,00,000/- to appellant-claimant No. 3.
(iii)	Loss of Love and affection to the parents	-	₹ 1 lac i.e. ₹ 50,000/- each to appellant-claimants No. 1 and 2.
(iv)	Funeral expenses	-	₹ 25,000/-
	Total	-	₹ 7,57,000/-

7. The enhanced amount of compensation would, thus, comes to ₹ 4,88,200/- [₹ 7,57,000/- - ₹ 2,68,800/- (already granted by the learned Tribunal)] payable by all the respondents jointly and severally. The enhanced amount of compensation would carry interest @ 12% per annum from the date of filing of the claim petition till its realization.

8. The instant appeal is partly allowed in the terms indicated above.

December 22, 2015
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(RAMENDRA JAIN)
JUDGE