

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.612 of 2002 (O & M)

Date of Decision: *August 19, 2015*

Rameshwar Dass & another

..... APPELLANTS

VERSUS

Raj Kumar & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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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?

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PRESENT: - Mr. Pritam Saini, Advocate, for the appellant.

None for respondent Nos.1 to 3.

Mr. Vinod Gupta, Advocate, for respondent
No.4 – Insurance Company.

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Jaspal Singh, J

1. The instant appeal has been preferred by
Rameshwar Dass and Debo Devi Saran, parents of Salinder who
died on account of injuries suffered by him in a vehicular

accident on September 26, 1999 involving Car No.HR-26C-5626.

2. Briefly stated, facts of the case are that on September 26, 1999, Salinder was going from Ladwa to Babain while sitting on the pillion seat on Moped No.HR-07C-5903, driven by one Ram Saran. At about 11:30 AM, when they reached on the turn of village Bhallar, located on Ladwa – Babain road, car bearing No.HR-26C-5626 came from the side of Babain, being driven by respondent No.1 – Raj Kumar, on the wrong side of road. The offending car dashed into the moped driven by appellant, due to which, Ram Saran as well as Salinder suffered multiple injuries. One Jarnail Singh witnessed the accident. He alongwith others shifted the injured to Community Health Centre, Ladwa, wherefrom, they were referred to PGI, Chandigarh. However, on the way, Salinder Kumar succumbed to injuries. Thereafter, they were brought back to Lok Nayak Jai Parkash Hospital, Kurukshetra, where, Ram Saran was admitted. On the basis of Jarnail Singh, FIR bearing No.137 dated September 26, 1999, under Sections 279, 337, 338, 384-A IPC was registered in Police Station, Ladwa, District Kurukshetra.

3. Appellants – Rameshwar Dass and Debo Devi, father and mother of deceased, preferred a claim petition bearing MACT Case No.535 of 1999 before Motor Accident Claims Tribunal, Kurukshetra (for short, 'Tribunal'). Vide Award dated August 1, 2001, claimants were awarded compensation to the tune of ₹ 1,78,500/- alongwith interest @ 9% from the date of filing of claim petition, holding respondent No.1 – Raj Kumar (driver) and respondent No.2A – Raj Kumar son of Ram Kishore (owner of offending car) to be liable to pay compensation jointly and severally.

4. Aggrieved by aforesaid award, claimants have approached this Court through instant appeal seeking modification of award.

5. A glance at the aforesaid award transpires that learned Tribunal, after assessing the income of deceased to the tune of ₹ 2400/- per month, awarded ₹ 1,74,000/- towards loss of dependency, ₹ 2,000/- towards funeral expenses and ₹ 2,500/- towards loss of estate, making total compensation to the tune of ₹ 1,78,500/-.

6. Learned counsel for the appellants has assailed the impugned award while ebulliently arguing that multiplier adopted by the Tribunal is on lower side and is not in

consonance with the ratio laid down in Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77.

7. It has further been argued by learned counsel that only a meagre sum of ₹ 2,000/- has been awarded on account of funeral expenses, which ought to have been awarded to the tune of ₹ 25,000/-, in view of ratio laid down in Smt. Sarla Verma's case (supra). No compensation has been awarded by learned Tribunal on account of loss of love & affection to the parents, which should have been atleast to the tune of ₹ 1,00,000/-. Similarly, no compensation has also been awarded on account of Future Prospects, which should have been assessed, determined and awarded by learned Tribunal to the extent of 50% of his income, keeping in view the age of deceased. Interest awarded by learned Tribunal on the awarded amount is also on lower side. Thus, the amount so awarded by learned Tribunal cannot be termed to be just and adequate compensation and the same deserves to be enhanced.

8. There is no appearance on behalf of respondent Nos.1 to 3. Liability to pay compensation has been fastened upon respondent No.1 – Raj Kumar (driver) and respondent No.2A – Raj Kumar son of Ram Kishore, (owner of offending car), respondent No.3 herein, jointly and severally.

9. After bestowing due consideration to the rival submissions made by learned counsel for the parties and perusal of impugned award as well as other evidence available on file, this Court is of the considered view that amount of compensation awarded through impugned award deserves to be enhanced, which otherwise cannot be termed to be just and proper.

10. In the case in hand, an unmarried young boy of the age of 22 years has lost his life in a vehicular accident on September 26, 1999. Learned Tribunal has assessed his income to the tune of ₹ 2,400/- per month. In view of law laid down by Hon'ble Apex Court in Rajesh & others vs. Rajbir Singh & others, 2013(3) RCR (Civil) 170, claimants are entitled to future prospects to the extent of 50%. Thus, income of deceased is assessed to ₹ 3,600/- per month i.e. ₹ 2,400/- (assessed by the Tribunal) + ₹ 1,200/- (being 50%). After having deducted 1/2 of his income in consideration of expenses which the victim would have incurred towards maintaining himself had he been alive, dependency is worked out to ₹ 1,800/- per month.

11. As per the guidelines highlighted by the Hon'ble Apex Court in Sarla Verma's case (supra), since the deceased was 22 years of age i.e. in the age group of 15-25 years,

multiplier of 18 deserves to be applied. Therefore, claimants are entitled to compensation to the tune of ₹ 3,88,800/- i.e. 1800 X 12 X 18.

12. In view of law laid down in Darshan Lal Oberoi & others vs. Babu Lal & others, 2014(2) RCR (Civil) 457, since Salinder was unmarried, claimants being parents are also entitled to compensation on account of loss of love & affection which is assessed to the tune of ₹ 1,00,000/-. Besides, claimants – appellants are also entitled to ₹ 25,000/- on account of funeral expenses.

13. In the light of what has been discussed above, appeal is partly allowed and claimants – appellants are, thus, entitled to enhanced compensation to the tune of ₹ 5,13,800/-, which shall be payable by respondent Nos.1 and 3. Enhanced amount shall be payable within a period of 45 days from the date of receipt of certified copy of this judgment, otherwise, it shall entail interest @ 7.5% per annum from the date of original claim petition.

14. No order as to costs.

August 19, 2015
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(Jaspal Singh)
Judge