

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4111 of 2005 (O&M)
Date of Decision : 11.12.2015

Sharanjit Kaur

.....Appellant

Versus

Mohinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Neeraj Khanna, Advocate
for the appellant.

Mr. Amit Jaswal, Advocate
for respondent no. 4-Insurance Company.

Surinder Gupta, J.

This is appeal by claimant seeking enhancement of compensation for the death of her son Sampuran Singh (later referred to as 'the deceased') aged 22 years in a motor accident with truck No. HR-26-1750 (later referred to as 'the offending vehicle').

2. As per the claimant, on 23.11.1999 the deceased was going on his motorcycle bearing registration no. PBW-7671 and reached near *Gajipur Jattan Gurudwara Sahib* where the offending vehicle came from the opposite side i.e. from Panchkula side. It was being driven by respondent no. 1 in a rash and negligent manner. He brought the offending vehicle on wrong side of the road and hit motorcycle of the deceased as a result of which he fell down and suffered multiple injuries resulting in his death at the spot.

3. Driver and owner of the offending vehicle did not appear before the Tribunal despite notice and were proceeded *ex parte*. The claim petition was contested by the Oriental Insurance Co. Ltd. It denied the accident and took alternate plea that in the event of

accident being proved the same was due to sole negligence of the deceased. Plea was also taken that driver of the offending vehicle was not having valid driving licence, registration certificate, route permit and fitness certificate of the offending vehicle, as such, the insurance company is not liable to pay the compensation amount.

4. As this appeal has been filed, seeking enhancement of compensation, facts of the case relating to accident are not required to be discussed in detail.

5. The Tribunal recorded finding that the accident had taken place due to rash and negligent driving of the vehicle by respondent no. 1. On quantum of compensation, it assessed income of the deceased as ₹ 2400/- per month and after making deduction of 50% towards personal expenses of the deceased multiplier of 13 was applied to calculate the amount of dependency as ₹ 1,87,200/- to which ₹ 2500/- was added on account of funeral expenses and a total amount of compensation of ₹ 1,89,700/- was allowed.

6. Learned counsel for the appellant has argued that as per observations in case of **Sarla Verma and Ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, the Tribunal was required to calculate the amount of compensation by applying the multiplier of 18. Relying on observations in case of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54**, he has argued that the appellant is also entitled to addition of 50% in income of the deceased towards future prospects. The Tribunal has not allowed compensation towards loss of estate to the claimant. Even if the accident had taken place in the year 1999,

amount of ₹ 25,000/- could be allowed towards loss of estate and ₹ 5000/- towards funeral expenses.

7. Learned counsel for respondent no. 4-Insurance Company has argued that the matter regarding allowing of compensation towards future prospects as decided by the Apex Court in the case of **Rajesh (supra)** is pending consideration before the larger Bench of the Apex Court in case **National Insurance Company Limited vs. Pushpa and others, Appeal (C) No.8058 of 2014 decided on 02.07.2014 (MANU/SC/1246/ 2014)**. Quantum of compensation to be allowed for the loss of estate, funeral expenses etc. was within the discretion of Tribunal and was rightly allowed in this case.

8. It is not disputed that as per norms fixed in case of **Sarla Verma (supra)**, multiplier of 18 is required to be applied, while calculating the amount of dependency in this case. The claimant is also entitled to compensation towards loss of estate and funeral expenses. The same is allowed as prayed by learned counsel for appellant. The amount of compensation to which the claimant is entitled, is calculated as follows:-

Sr. No.	Heads	Calculation
(i)	Salary	₹2400 per month
(ii)	50% of (i) above to be added as future prospects	₹2400 + ₹1200 = ₹3600 per month
(iii)	1/2 nd of (ii) deducted as personal expenses of the deceased	₹3600 - ₹1800 = ₹1800 per month
(iv)	Compensation after multiplier of 18 is applied	(₹1800X12X18) = ₹ 388800
(v)	Loss of estate	₹25000
(vi)	Funeral expenses	₹5000
Total		₹418800

9. The appeal is accepted. Award of the Tribunal is modified and the appellant-claimant is allowed compensation of ₹4,18,800/- for the death of Sampuran Singh. The claimant shall also be entitled to interest @ 7.5% per annum from the date of petition till the date of actual payment. The enhanced amount of compensation shall be paid by respondent no. 4-Insurance Company to the claimant within a period of six weeks by way of demand draft.

December 11, 2015
jk

(SURINDER GUPTA)
JUDGE

Whether to be referred to the Reporters or not? Yes/No