

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.590 of 2006 (O&M)

Date of decision: 30.04.2015

Banto Devi and others

..... Appellants

versus

Shri Ram Kishore Tiwari and others

..... Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.R.S.Mamli, Advocate for the appellants
Mr.Rajnish Malhotra, Advocate for respondent No.3

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Appellants/ claimants have filed this appeal against the award dated 7.5.2004, passed by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short, 'the Tribunal).

The facts of the case are that on 4.6.2000, Gurmail Singh, Labh Singh and Sat Pal deceased along with one Gurdev Singh were travelling in tractor trolley bearing registration No.HR-02B-2329 and were going to village Kakthwala from village Kakkar Majra. Gurmail Singh was driving the tractor. At about 11.00 pm, when they crossed the village Dheen on Ambala-Jagadhri road, a truck bearing registration No.UAW-9602 driven rashly and negligently by Sukhdev Singh hit the tractor trolley from behind. The other occupants received injuries. However, Sat Pal died as a result of the

accident.

The Tribunal came to the conclusion that the age of the deceased was between 45 to 50 years. The deceased was working as Supervisor in Yamuna Nagar Cane Grower Cooperative Society from where one Narinder Kumar Supervisor appeared and deposed that the salary of the deceased was Rs.4765.50 per month and carry home salary was Rs.3806/- after making deductions towards provident fund and loan. The Tribunal took into consideration the carry home salary, deducted 1/3rd as personal expenses, applied multiplier of 13 and calculated the compensation at Rs.3,90,000/-. Rs.5000/- towards funeral expenses and Rs.5000/- on account of loss of consortium was also allowed. Total compensation of Rs.4 lacs was allowed.

Learned counsel for the appellants has argued that total income of the deceased was to be taken into consideration, in which, 30% was to be added towards future prospects and since number of dependents are six, 1/4th was to be deducted as personal expenses.

I find that the contention is in lines with the various authoritative pronouncements of the Apex Court. Accordingly, income of the deceased is taken to be Rs.4765/-, in which, 30% addition is made on account of future prospects and after adding the same, total income comes to Rs.6194/-. From the same 1/4th i.e. Rs.1548/- are deducted as personal expenses. The dependency of the claimants comes to Rs.4646/- and after applying the multiplier of 13, the amount of compensation comes to Rs.7,24,776/-. Rs.one lac to widow for loss of consortium and Rs.one lac to the children for loss

of love and affection and guidance of their father are allowed. Another sum of Rs.25,000/- is allowed for funeral expenses and last rites in terms of ratio of judgment in the case of Rajesh and others v Rajbir Singh and others, 2012 ACJ 1403 (SC). Total amount of compensation comes to Rs.9,49,776/-.

Since the vehicle was insured with respondent No.3- insurance company, therefore, the insurance company shall be liable to pay the compensation. The enhanced compensation shall be paid with interest @ 7.5% per annum from the date of filing the claim petition till its realization. In terms of the impugned award, the insurance company shall have recovery rights against the insured. Out of the amount of compensation, 50% shall go to the widow of the deceased who is to run the day to day affairs of the family and the remaining amount shall be equally shared by the claimant Nos.2 to 6. It is to be noted that the minimum age of minors claimants was ten years in the year 2000, when the claim petition was filed and now they have become major. The amount shall be deposited in the bank accounts of the claimants-appellants to be furnished before the Tribunal.

The appeal is allowed accordingly.

30.04.2015
gk

(Kuldip Singh)
Judge