

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.135 of 2009 (O&M)
Date of Decision: July 31, 2015

Indrawati and others

...Appellants

Versus

Satbir and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harkesh Manuja, Advocate
for the appellants.

Respondent No.1 ex parte.

Mr.Ram Pal Verma, Advocate
for respondent No.2.

Mr.Gopal Mittal, Advocate
for respondent No.3.

INDERJIT SINGH, J.

Appellants-claimants Indrawati (widow), Kumari Neha (minor daughter), Mukesh and Pawan (minor sons of deceased Dharampal) have filed this appeal against respondents Satbir, driver, Dalbir Singh, owner and The United India Insurance Company Ltd., Insurer of Canter bearing registration No.HR-38A-3921 (offending vehicle) and Smt.Manglo, proforma-respondent, challenging the impugned Award dated 17.11.2008 passed by learned Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'Tribunal'), for enhancement of the compensation, which was awarded by the

Tribunal, on account of death of Dharampal.

The brief facts of the case are that claimants-appellants Indrawati, Kumari Neha, Mukesh and Pawan filed claim petition against respondents Satbir, driver, Dalbir Singh, owner and The United India Insurance Company Ltd., Insurer of offending vehicle, under Section 166 of the Motor Vehicles Act, 1988, on account of death of Dharampal in a motor vehicular accident. It is the case of the claimants that on 14.04.2007, Dharampal along with his wife Indrawati was going from Murthal to his village on motorcycle. At about 10.00 P.M., when they reached on G.T. Road, one Canter bearing registration No.HR-38A-3921 was parked by respondent-driver without any indication, due to which the motorcycle hit the offending vehicle from behind despite applying brakes by Dharampal. In the said accident, Dharampal and Indrawati received multiple injuries and Dharampal died later on. FIR was also registered. At the time of accident, the deceased was about 38 years of age. He was employed as driver in Rukmani Devi Public School, Pitampura and was earning ₹6000/- per month.

Upon notice, respondents contested the case of the claimants.

After framing of the issues and after going through the evidence on record, the Tribunal awarded ₹7,22,400/- to the claimants along with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

Aggrieved from the above-said Award, present appeal has

been filed by the claimants for enhancement of compensation.

Notice of motion was issued to respondents and learned counsel for respondents No.2 and 3 appeared and contested the appeal. However, none appeared on behalf of respondent No.1 despite service and he was proceeded against ex parte.

At the time of arguments, learned counsel for the appellants argued that no future prospects have been given in the present case and only ₹5000/- has been granted on the ground of loss of consortium and ₹10,000/- for transportation and funeral expenses. He next argued that no compensation has been given regarding loss of love and affection to the minor children.

On the other hand, learned counsel for the respondents argued that compensation has been correctly awarded and does not require any interference from this Court.

I have heard learned counsel for the parties and have gone through the record.

From the record, first of all, I find that as per law laid down by the Hon'ble Supreme Court in ***Rajesh and others vs. Rajbir Singh and others, 2013(3) RCR (Civil) 170***, the claimants-appellants are entitled to ₹25,000/- as funeral expenses, ₹1 lac for loss of consortium and further 50% should be added as future prospects. The Three Judges' Bench of Hon'ble Supreme Court in the latest judgment in Civil Appeal No.4497 of 2015 (arising out of SLP(C) No.8362 of 2013 decided on 15.05.2015, granted 50% addition to the actual income of the deceased, while computing future prospects,

who was below than 40 years of age. Therefore, the claimants-appellants are entitled to 50% future prospects, compensation on the ground of loss of love and affection, loss of consortium and funeral expenses. The minor claimants are also entitled to compensation of ₹1 lac each on ground of love and affection.

The age of the deceased was 38 years, therefore, multiplier of 15 has been correctly applied. The income of the deceased has been assessed by the Tribunal @ ₹5900/- per month but no future prospects have been added.

Keeping in view the above discussion, the claimants-appellants are entitled to compensation as under:-

Income assessed of the deceased	₹5,900/- per month
By adding 50% future prospects	₹5,900/- + ₹2,950/- = ₹8,850/-
Dependency by deducting 1/4 th	₹6,637.50 rounded off to ₹6,640/-
Dependency after applying multiplier of 15	₹6,640/-x 12 x 15 = ₹11,95,200/-
Funeral expenses	₹25,000/-
Loss of consortium	₹1,00,000/-
Loss of love and affection to each minor (three minors)	₹1,00,000/-x 3= ₹3,00,000/-
Total compensation	₹16,20,200/-

As the Tribunal has held deceased also liable for contributory negligence to the extent of 25%, therefore, the compensation after deducting 25% on the basis of contributory negligence, comes to ₹16,20,200 - ₹4,05,050 = ₹12,15,150/-.

In view of above, the appellants-claimants are entitled to total compensation of ₹12,15,150/- along with the same interest on

the enhanced amount as awarded by the Tribunal from the date of filing of the petition till realization. The enhanced amount be disbursed to the claimants proportionately as per Award passed by the Tribunal.

Therefore, finding merit in the present appeal, the same is allowed accordingly.

July 31, 2015
Vgulati

(INDERJIT SINGH)
JUDGE