

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.4224 of 2009

Date of decision:28.04.2015

Balwinder Kaur and anr.

.....Appellants

versus

Surinder Kaur and others

....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Vijay Lath, Advocate,
for the appellants.

Mr. Puneet Sharma, Advocate,
for respondents No.1 and 2.

Mr. Vishal Gupta, Advocate,
for respondents No.3 and 4.

Mr. Rohit Goswami, Advocate, for
Mr. Vinod Chaudhary, Advocate,
for respondent No.5.

Kuldip Singh, J. (Oral)

This appeal has been filed by Balwinder Kaur and minor son Bikramjit Singh (respondents No.4 and 5 before the Tribunal) against award dated 21.03.2009 passed by the Motor Accident Claim Tribunal, Rupnagar (for short 'Tribunal'). Narinder Singh husband of appellant No.1 and father of appellant No.2 died in a motor vehicle accident on 14.04.2006 when his motorcycle bearing registration No. PB-11W-6313 was hit by the offending truck bearing registration No. HR-58-6077, driven by respondent No.3-Tirath Singh. An FIR No.82 dated 15.04.2006 under Sections 279, 304-A IPC was registered against respondents namely, Tirath Singh, Surinder Kaur and Jagmail Singh, the parents of the deceased being the legal heirs of the deceased filed a claim petition, claiming compensation.

The Tribunal assessed the income of the deceased at Rs.3,000/- per month as applicable to a casual labourer. 1/3rd therefrom was deducted as personal expenses and the dependency of the claimants and respondent Nos.4 and 5, (appellant herein) was taken to be Rs.2,000/- per month and Rs.24,000/- per year. The age of the deceased was assessed as 40 years. A Multiplier of 15 was applied and the compensation was worked out, to be Rs.3,60,000/-. An another sum of Rs.5,000/- was granted to the widow of the deceased for loss of consortium.

Learned counsel for the appellant has argued that in this case the amount of compensation has been ordered to be equally disbursed between parents of the deceased as well as the present appellant which is unjustified. It has been further argued that future prospects were not taken into consideration. Neither loss of love and affection to the minor was considered nor any funeral expenses were granted and an inadequate compensation for loss of consortium was awarded.

Considering the facts and circumstances, I am of the view that the future prospects were not considered by the Tribunal.

Keeping in view the age of the deceased, 30% income is added towards future prospects, i.e. Rs.900/-. The income of the deceased comes to Rs.3,900/- per month. 1/3rd therefrom is deducted for personal expenses. The dependency of the appellant and the claimants comes to Rs.2,600/- per month and annual dependency come to Rs.31,200/-. After applying a multiplier of 15, amount of compensation comes to Rs.4,68,000/-. A sum of Rs. One lac for loss of consortium to the widow of the deceased. Another sum of Rs. One lac for loss of love and affection and guidance of the father, are allowed. A sum of Rs.25,000/- for performing the last rites is allowed. Thus, total

amount of compensation comes to Rs.6,93,000/-.

Seeing the age of the parents, which was 60 to 62 years at the time of the filing of the claim petition and the age of young widow and minor son of the deceased, who have to bear on the entire after effect of the death, the modification of the apportionment of the compensation is also required.

Keeping in view the facts and circumstances of the case, a fixed sum of Rs.93,000/- is ordered to be paid to the parents. Out of the remaining compensation, 50% shall go to the widow of the deceased who has to run day to day affairs of the family and also to bring up the minor son. Remaining 50% shall go to appellant No.2-minor which be deposited in long term FDR account in the name of minor Bikramjit Singh in a nationalised bank, of the choice of his mother, which will be paid to the minor on attaining the age of majority without further orders of the Court. The enhanced compensation shall also carry an interest rate @ 7.5% from the date of filing of claim petition till its realisation.

Appeal is accordingly allowed.

(KULDIP SINGH)
JUDGE

28.04.2015
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