

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Date of Decision: *October 07, 2015*

FAO No.4103 of 2010 (O & M)

Inder Singh & another

..... APPELLANT

VERSUS

Sewa Ram & 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. Pankaj Mehta, Advocate, for the appellants.

Mr. R.S. Mamli, Advocate, for respondent No.1.

Ms. Shamsher Kaur, Advocate, for respondent No.2.

Mr. Madhu Ranjan, Advocate, for respondent No.3.

Mr. Gaurav Bansal, Assistant Advocate General,
Haryana, for respondent Nos.4 and 5.

Mr. D.P. Gupta, Advocate and Mr. Rohit Goswami,
Advocate, for respondent No.6.

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Jaspal Singh, J

1. The instant appeal has been preferred by claimants – appellants Inder Singh and Smt. Mewa Devi (parents of Manoj Kumar, deceased) seeking enhancement of compensation awarded to him by the Motor Accident Claims Tribunal, Hisar (for short, ‘Tribunal’) vide

Award dated November 20, 2009 passed in MACT Case No.77 of 2008 titled 'Inder Singh & another vs. Sewa Ram @ Sewa Singh & others', whereby They have been awarded compensation to the tune of ₹ 3,94,000/- on account of death of their son in a vehicular accident.

2. The brief facts of the case are that on June 5, 2006, Manoj Kumar, son of claimants – appellants, was one of the passengers in a jeep bearing registration No.HR-39A/4678, going from Hansi to Hisar. Sewa Ram was the driver of the said vehicle. He was driving the jeep at high speed, in a rash, negligent and zig zag manner. When the jeep reached near TCP Gate No.2, Hisar Cantt., Hisar, at about 9.45 AM, it struck against a bus bearing registration No.HR-62A/0416, as a result of which, occupants of the jeep received grievous injuries. FIR No.435 dated June 5, 2006 under Sections 279, 337, 304-A IPC was registered against Sewa Ram at Police Station, Sadar Hisar, regarding the aforesaid accident. Manoj Kumar received multiple grievous injuries. He was taken to General Hospital, Hisar where he was medico-legally examined. He was shifted to Chawla Nursing Home, Hisar, wherefrom he was referred to CMC, Hisar on June 6, 2006, however, he succumbed to injuries on June 9, 2006.

3. The appellants preferred a claim petition before the Tribunal seeking compensation. The petition was contested by the respondents by filing written statements. From the pleadings of the parties, issues were framed. In order to prove their respective cases, parties led evidence.

4. After hearing learned counsel for the parties and on appraisal of evidence, the claimants – appellants were awarded a sum of ₹ 60,000/- towards of expenses incurred on treatment of Manoj Kumar (deceased); ₹ 3,24,000/- towards loss of dependency; and ₹ 5,000/- towards loss of estate; and ₹ 5,000/- towards funeral expenses, totaling ₹ 3,94,000/-, vide Award dated November 11, 2009 passed by the Tribunal. Respondent No.1 – Sewa Singh @ Sewa Ram (Driver cum Owner of offending jeep) and respondent No.2 – Oriental Insurance Company (for short, ‘Insurance Company’) were held liable to pay the compensation. However, Insurance Company shall first satisfy the award, thereafter, shall recover the same from respondent No.1.

5. Dis-satisfied by the aforesaid award, claimant has approached this Court seeking enhancement of compensation.

6. While assailing the impugned award, learned counsel for the appellant has contended that compensation awarded by the Tribunal is on lower side and thus, liable to be enhanced. Funeral expenses have been granted to the tune of ₹ 5,000/- only. No compensation towards love & affection has been granted. Income of deceased has been wrongly assessed to the tune of ₹ 3,000/- per month whereas he was earning ₹ 10,000/- per month. Manoj Kumar was running a shop of mobile repair and mobile sale and purchase. Moreover, Manoj Kumar was unmarried and aged about 22/23 years at the time of death. He was the sole bread winner of the family.

7. Learned counsel for respondent No.1 – Sewa Ram @ Sewa Singh (driver of offending jeep) has contended that the Tribunal

has passed the award without perusing the facts of the case and evidence produced on the record. The award is based on conjectures and surmises, thus, is liable to be set aside. Infact, there is no evidence to establish that accident occurred due to rash and negligent driving of jeep, in which, the appellant suffered injuries.

8. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and gone through the record available.

9. As far as submission of learned counsel for respondent No.1 – driver of the offending jeep, is concerned, the same is without any substance. The Tribunal has rightly observed that the accident occurred due to rash and negligent driving of the offending jeep. There is sufficient evidence in this regard and the findings recorded by the Tribunal do not call for any interference.

10. So far as contention of learned counsel for the appellant regarding inadequacy of compensation is concerned, this Court finds that the compensation awarded by the Tribunal is on lower side. On some of the counts like loss of love & affection and future prospects, no compensation has been awarded whereas only a meagre amount of ₹ 5,000/- has been awarded on account of funeral expenses.

11. The Tribunal has assessed the income of Manoj Kumar (deceased), as ₹ 3,000/- per month and dependency has been worked out to ₹ 1,500/-. The Tribunal, by applying the multiplier of 18, awarded compensation to the tune of ₹ 3,94,000/- including medical expenses incurred on Manoj Kumar (deceased), funeral expenses and loss of estate.

12. Manoj Kumar was an unmarried young boy of the age of 22/23 years, who lost his life on June 9, 2006 in a vehicular accident, occurred on June 5, 2006. The learned Tribunal has assessed his income to the tune of ₹ 3,000/- per month and applied deduction to the extent of 50% as he was only survived by his parents. The Tribunal has rightly applied a multiplier of 18 keeping in view the guidelines laid down by the Hon'ble Apex Court in case Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77. Similarly, the claimants are entitled to compensation on account of loss of love & affection as well as transportation. Even, funeral expenses awarded by learned Tribunal are only to the tune of ₹ 5,000/-, which should be ₹ 25,000/- as per the latest law.

13. Apart from it, in view of the pronouncement of Hon'ble Apex Court in Rajesh & others vs. Rajbir Singh & others, 2013(3) RCR (Civil) 170, the claimants – appellants are entitled to future prospects to the extent of 50%.

14. Accordingly, the claimants shall be entitled to the enhanced compensation as under:-

1.	Income assessed	₹ 3,000/- p.m.
2.	Future prospects (50% of the income assessed)	₹ 1,500/- p.m.
3.	Total Income (₹ 3,000 + ₹ 1,500)	₹ 4,500/- p.m.
4.	Deduction to the extent of 50% towards personal expenses	₹ 2,250/- p.m.
5.	Annual Dependency (₹ 2,250 x 12)	₹ 27,000/-
6.	Multiplier of 18 (₹ 2,250 x 12 x 18)	₹ 4,86,000/-
7.	Funeral Expenses	₹ 25,000/-
8.	Loss of Love & Affection	₹ 1,00,000/-
9.	Transportation	₹ 5,000/-
10.	Total Compensation	₹ 6,16,000/-

15. In the light of what has been discussed above, the appeal is partly allowed. The claimants are entitled to enhanced compensation to the tune of ₹ 2,22,000/- (i.e. ₹ 6,16,000 - ₹ 3,94,000). The Oriental Insurance Company shall satisfy the award within a period of two months from the date of receipt of certified copy of this judgment, however, it shall have the right to recovery the amount so paid to the appellants from respondent No.1 – driver –cum- owner of the offending jeep.

14. No order as to costs.

October 07, 2015

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(Jaspal Singh)
Judge