

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2791 of 2011

Date of decision: 24.12.2015

Prem Singh and others

..... Appellants

Versus

Rajesh Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

1. *Whether Reporters of the 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?*

PRESENT: Mr. SP Chahar, Advocate for the appellants.

Mr. Chanderhass Yadav, Advocate
for respondents No. 1 and 2.

None for respondent No. 3-Insurance Company.

RAMENDRA JAIN, J.

By this appeal, the claimants have sought enhancement of compensation awarded to them vide impugned Award dated 23.08.2010, passed by the learned Motor Accident Claims Tribunal, Jhajjar (for short 'the Tribunal').

2. Briefly stated, on 25.05.2009, son of appellants No. 1 and 2 and brother of appellant No. 3, namely Vikas died in a road accident caused by respondent No. 1 while driving tractor bearing

No. HR-14-C-7423, near Yadav Dharamshala, Jhajjar. The claimants filed claim petition under Section 166 of the Motor Vehicles Act, claiming compensation of ₹ 15 lacs along with interest @ 18% per annum against this.

3. Upon notice, the respondents contested the claim petition. Respondents No. 1 and 2 (driver and owner of the offending tractor) in their joint written statement denied negligence of respondent No. 1. They pleaded false implication of their aforesaid tractor. Insurance Company-respondent No. 3 taking the similar stand further sought exoneration of its liability as respondent No. 1 was not holding a valid and effective driving licence at the time of alleged accident.

4. The learned Tribunal after framing necessary issues and recording evidence to the satisfaction of parties awarded ₹ 4,04,000/- as compensation to the appellants along with interest @ 7.5% per annum from the date of filing of the claim petition till realization payable by all the respondents jointly and severally vide impugned Award. Being dissatisfied, the appellants-claimants have preferred the present appeal.

5. Learned counsel for the appellants argued that the learned Tribunal ought to have applied the multiplier of 18 instead of 16. It has further been contended that the learned Tribunal Tribunal also erred in not granting any compensation towards loss of love and affection to appellant No. 3, besides loss of estate and future prospects etc.

6. The accident took place in the year 2009. The deceased Vikas was unmarried at the time of his death. The learned Tribunal, notionally assessed his monthly income at ₹ 4000/- per month as there

was no cogent proof qua his monthly/yearly income. 50% was deducted towards his personal expenses. The above conclusion of learned Tribunal does not warrant any interference, in view of the well settled proposition of law, because as discussed above, the deceased was bachelor. However, keeping in view the age of the deceased as 20 years at the time of his death, the multiplier of 18 should have been applied instead of 16 in view of **Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77.** After applying the same, the amount of compensation to be awarded to the appellants comes to ₹ 4,32,000/- (2000 x 12 x 18).

7. It is needless to mention that in this era of globalization and multi-national culture, the expenditure and profits are counted on day to day basis by any employer and he acts very sharply in removing his staff etc. in case his profit reduces even for a short or temporary period. Moreover, it is always found that there is less demand of persons of more than 40 years of age, because in this world of competition, generally an employer always preferred to recruit young boys below the age of 35 years to exploit their skill extracting their working potential to the maximum for his earnings, which starts decreasing at the age of 40 years. Unemployment in this country has created chaos. Even graduates and post graduates are roaming idle. The fact also cannot lose sight that sometimes a casual labourer does not get the job in the entire month or the entire year.

8. Keeping in view the above factors and uncertainty of employment in this era of globalization and multinational culture as

discussed above, I am not inclined to add anything to the monthly income of the deceased towards loss of “future prospects”. More so, in the instant case, there is no definite evidence on record that the deceased was an earning hand. However, in **Munna Lal Jain and another Vs. Vipin Kumar Sharma and others, 2015 (3) Recent Apex Judgments 459**, the full Bench of the Hon'ble Apex Court while discussing the judgment in **Reshma Kumari Vs. Madan Mohan, (2013) 9 SCC 54**, wherein addition of something to the income of an un-employed deceased was disapproved, but relying upon the judgment in **Sarla Verma's case (supra)** added 50% to the income in case of a bachelor deceased towards future prospects. Therefore, in view of the above decision of the Hon'ble Apex Court, 50% is to be added to the income of deceased towards loss of future prospects. After adding the same, the claimants are held entitled to ₹ 2,16,000/- (432000 x 50/100) towards loss of future prospects.

9. Besides above an amount of ₹ 50,000/- is granted to appellant No. 3 towards loss of love and affection as she lost her brother in quite young age. Thus, the appellants-claimants are held entitled to the total compensation as under:-

(i)	Loss of dependency	-	₹ 6,48,000/- [₹4,32,000/- + ₹ 2,16,000/- (50% towards future prospects)]
(ii)	Loss of Love and affection	-	₹ 50,000/- i.e. to appellant-claimant No. 3.
	Total	-	₹ 6,98,000/-

10. The enhanced amount of compensation would, thus, comes to ₹ 2,94,000/- [₹ 6,98,000/- - ₹ 4,04,000/- (already granted by the learned Tribunal)]. The enhanced compensation would be paid to the

appellant-claimants along with interest @ 9% per annum from the date of filing of the claim petition till its realization payable by all the respondents jointly and severally.

11. No other point was urged. The instant appeal is partly allowed in the terms indicated above.

December 24, 2015
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(RAMENDRA JAIN)
JUDGE