

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.5277 of 2010 (O & M)
Date of Decision: *February 05, 2015*

Kamlesh & others

..... APPELLANT(S)

VERSUS

Tilak Raj & 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. R.L. Batta, Senior Advocate, with
 Ms. Geeta Sharma, Advocate, for the
 appellants.

 Mr. Eklavya Darshi, Advocate, for respondent
 No.3 – Insurance Company.

 Ms. Kiran Verma, Advocate, for respondent
 No.4.

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Jaspal Singh, J

1. The instant appeal has been preferred by the

claimants seeking enhancement of compensation on account of

death of Sardari Lal who succumbed to injuries received in a

motor vehicular accident on May 10, 2004 involving TATA Spacio bearing registration No.HP-01-A-3081.

2. While assailing impugned award dated January 20, 2010 passed by the Motor Accident Claims Tribunal, Chandigarh (for short, 'Tribunal'), learned counsel for the appellants has contended that Sardari Lal (deceased), aged about 52 years, was employed as Senior Deputy General Manager & Construction Manager with respondent No.4, and was earning ₹ 60,000/- per month, and was an income tax assessee. The compensation awarded by the learned Tribunal is on lower side and thus, liable to be enhanced. The amount awarded on account of loss of consortium and funeral expenses is insufficient and inadequate. No amount has been awarded on account of future prospects.

3. Learned counsel for the respondents have supported the award passed by the Tribunal. They submitted that since just and adequate compensation has already been awarded by the Tribunal while keeping in view the facts and circumstances of the case, evidence available on file and latest proposition of law, no interference of this Court is justified and instant appeal deserves to be dismissed with an exemplary cost.

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

5. It is admitted that the accident took place when respondent No.1 was driving the offending vehicle. Respondent No.1 failed to control the vehicle at a sharp curve and fell down into a gorge resulting in death of Sardari Lal at the spot. Sardari Lal was 52 years of age at the time of his death. It is also not in dispute that Sardari Lal was employed as Senior Deputy General Manager with respondent No.4 and was a qualified engineer. He was having bright future prospect of promotion and annual increments alongwith other emoluments. He was an income tax assessee. However, no compensation has been awarded towards future prospects. Only a sum of ₹ 5,000/- each has been awarded on account of loss of consortium and funeral expenses. Compensation to the tune of ₹ 20,74,000/- was awarded by the Tribunal alongwith interest @ 6% per annum from the date of institution of claim petition till its realization. Driver, owner and insurer of the offending vehicle were held liable to pay the amount of compensation, jointly and severally. However, the petition qua respondent No.4, employer of deceased, was dismissed.

6. Keeping in view the facts and circumstances of the case, compensation awarded to claimant No.1, on account of loss of consortium is enhanced by ₹ 95,000/-. Besides it, funeral expenses are enhanced by ₹ 20,000/- and a sum of ₹ 1 lac is awarded on account of future prospects as he was to remain in service for six years more and his salary must have increased by way of grant of annual increments or on account of length of service. Accordingly, total compensation to the tune of ₹ 2,15,000/- stands enhanced alongwith interest @ 7.5 % from the date of institution of the claim petition. Except an amount awarded on account of loss of consortium to which appellant – claimant No.1 shall be exclusive entitled, balance amount shall be shared by the claimants equally.

7. In the light of what has been discussed above, the appeal is partly allowed and the claimants are entitled to the enhanced compensation as referred to above.

8. No order as to costs.

February 05, 2015

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(Jaspal Singh)
Judge