

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3031 of 2011
Date of Decision : 05.12.2015

Panesh Bai @ Paina Bai and othersAppellant

Versus

Jalour Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Satbir Gill, Advocate
for the appellants.

Ms. Kaavya Jariyal, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J. (Oral)

Heard.

2. This is appeal against award dated 15.12.2010 passed by Motor Accident Claims Tribunal, Sirsa (later referred to as 'the Tribunal') whereby compensation of ₹ 3,21,040/- was allowed to claimants for the death of Nimbu Nath @ Neem Nath in a motor accident dated 04.10.2009 with tractor No. HR-44-C-5831 (later referred as to as 'the offending vehicle').

3. The case of claimants, in brief, is that on 04.10.2009, Nimbu Nath @ Neem Nath was going in Jeep No. HR-20-D-0357 driven by Naurang Nath from village Khokhar to village Mallekan. When they reached near *Dera Jagmalwali*, the offending vehicle, which was being driven at a high speed in a rash and negligent manner, came from front side and hit the jeep resulting in serious injuries to deceased-Nimbu Nath @ Neem Nath who died at the spot.

4. Respondents no. 1 and 2 driver and owner of

offending vehicle denied that the accident had taken place due to rash and negligent driving of respondent no. 1 while respondent no. 3 denied the accident and its liability to pay any compensation.

5. The detail facts are not being discussed herein as the only relief pressed in this appeal is for enhancement of compensation.

6. Learned counsel for the appellants argues that the Tribunal while calculating the amount of compensation has allowed ₹ 5000/- towards funeral expenses, ₹ 5000/- towards loss of consortium and nothing has been allowed towards loss of love and affection for the children of deceased. Relying on the observation in case of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54**, he claims that compensation of ₹ 25000/- towards funeral expenses, ₹ 1 lac towards of consortium and ₹ 1 lac towards loss of love and affection, care and guidance for the children be allowed to claimants.

7. Learned counsel appearing for respondent no. 3- Insurance Company argues that awarding of compensation is the discretion of the Tribunal and in the facts and circumstances of this case the Tribunal has allowed the appropriate compensation, which was made out.

8. The accident in this case had taken place on 04.10.2009. As per observation in ***Rajesh's case (supra)***, the claimants are entitled to the amount of compensation as argued by learned counsel for the appellants.

9. This appeal, as such, has merits and the

compensation allowed on account of funeral expenses is enhanced from ₹ 5000/- to ₹ 25,000/- , for loss of consortium from ₹ 5000/- to ₹ 1 lac and additional compensation of ₹ 1 lac is allowed for the loss of love and affection and care and guidance for the children.

10. In view of above discussion, the instant appeal is accepted and the compensation allowed the claimants is enhanced from ₹ 3,21,040/- to ₹ 5,36,000/-. The claimants shall be entitled to interest @ 7.5% per annum on the enhanced amount of compensation from the date of award till date of payment. The share of claimants in enhanced compensation shall be as per award by the Tribunal.

December 05, 2015
jk

(SURINDER GUPTA)
JUDGE