

In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.5998 of 2010

.....

Date of decision:24.7.2015

Tara Devi and others

.....Appellants

v.

Resham Singh and another

.....Respondents

....

**Coram : Hon'ble Mr. Justice Inderjit Singh**

.....

Present: Mr. Ajay Kumar Kansal, Advocate for the appellants.

None for respondent No.1.

Mrs. Shamsheer Kaur, Advocate for respondent No.2.

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**Inderjit Singh, J.**

This appeal has been filed by Tara Devi and others-appellants/claimants against Resham Singh and Oriental Insurance Company Limited-respondents for enhancement of compensation of ₹5,90,000/- along with interest @6% per annum from the date of filing of petition till realization awarded by the Motor Accident Claims Tribunal, Fatehgarh Sahib vide award dated 7.1.2010.

The brief facts of the case are that Tara Devi-wife, Raj Kumar and Ajay Kumar-minor sons, Vindiya Devi-minor daughter and Mathura Devi-mother of Mohinder Singh Dogra (since deceased)-claimants filed the claim petition against Resham Singh-owner and driver of Truck No.PB-

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10AA-9777 (hereinafter referred to as 'the offending truck') and Oriental Insurance Company Limited/insurer-respondents under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') on account of the death of Mohinder Singh Dogra in a motor vehicle accident.

The brief facts of the case are that on 12.10.2007 at about 5.30 p.m., Mohinder Singh Dogra (since deceased) was going on his bicycle towards Mandi Gobindgarh. When he reached ahead of turning of Swaraj place, Mandi Gobindgarh, truck bearing registration No.PB-10-AA-9777 driven by respondent No.1 in a rash and negligent manner at a high speed first hit with the tempo of Subhash Kumar, as a result of which the Tempo overturned on left side of the road. Said Subhash Kumar and one lady passenger received injuries. The offending vehicle then ran over Mohinder Singh Dogra (since deceased), who received multiple injuries and died at the spot. Respondent No.1 stopped the offending truck at some distance and came to the spot. He disclosed his name as Resham Singh. So many people gathered at the spot and on seeing the gathering, Resham Singh slipped away from there. FIR was got registered against him. The deceased was 54 years of age at that time and was employed in Modern Steel Limited, G.T. Road, Mandi Gobindgarh and was getting ₹6,482/- per month as salary along with annual bonus to the tune of ₹15,000/- per annum. The claimants filed claim petition for ₹15 Lakhs as compensation.

Respondent No.1 in the written statement denied the accident. Respondent No.2-Insurance Company also contested the claim petition that respondent No.1 was not holding a valid and effective driving licence at the

time of accident.

After framing the issues and the parties led evidence, the Tribunal awarded compensation of ₹5,90,000/- along with interest @6% per annum in favour of the claimants. Aggrieved from this award, the claimants have filed this appeal for enhancement of compensation.

Notice of motion was issued in this case. Mrs. Shamsheer Kaur, learned Advocate has put in appearance on behalf of respondent No.2 and contested this appeal. Mr. Nitesh Singla, learned Advocate has appeared on behalf of respondent No.1 earlier, but later on he absented from the proceedings. Today also, no one is present on behalf of respondent No.1.

At the time of arguments, learned counsel for the appellants argued that less income has been taken by the Tribunal and the multiplier is also on lower side and the compensation on the ground of funeral expenses, love and affection, loss of consortium and for loss of estate is also not granted and is also on the lower side.

From the evidence on record, I find that the salary of the deceased is ₹6482/- per month, which has been taken in round figure as ₹6,480/-. As there are five dependents of the deceased, therefore, the deduction of  $\frac{1}{4}^{\text{th}}$  is to be made.

Keeping in view the age of the deceased i.e. 54 years 6 months, as per decision of the Hon'ble Supreme Court in Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77, the multiplier of twelve is to be applied. As per the decision of Hon'ble Supreme Court in Rajesh and others v. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170, the claimants are entitled to ₹25,000/- as funeral

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expenses and ₹1 Lac for loss of consortium. Further I find that the minor child is also entitled for love and affection amounting to ₹1 Lac. Further the claimants are also entitled to loss of estate. Therefore, the claimants are entitled to compensation as under:-

1. Income assessed of the deceased :₹6,480/- per month
  2. After 1/4<sup>th</sup> deduction :₹4,860/- per month
  3. By applying the multiplier of twelve  
the dependency comes to 4860 x 12 x 12 :₹6,99,840/-
  4. For loss of consortium :₹1,00,000/-
  5. For love and affection for child :₹1,00,000/-
  6. Funeral and transportation  
expenses :₹ 25,000/-
  7. Loss of estate :₹ 25,000/-
  8. ₹50,000/- are awarded to the  
mother for love and affection  
to the major dependent of the employee :₹ 50,000/-
  - Total :₹9,99,840/-
- which is rounded off to ₹10 Lacs.

The claimants are entitled to ₹10 Lacs as compensation. The respondents are directed to pay the enhanced amount of compensation along with interest @6% per annum from the date of filing of the claim petition till actual payment. The respondents are directed to pay the enhanced amount along with 6% interest per annum as awarded by the Tribunal to the respondents as per the shares given by the Tribunal.

The appeal is accepted accordingly.

July 24, 2015.

**(Inderjit Singh)**  
**Judge**

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