

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.1762 of 2012 (O&M)

Date of Decision: 01.05.2015

Geeta Rani

..... APPELLANT

VERSUS

Shamsher Singh and others

..... RESPONDENTS

PRESENT: - Mr. Sourabh Bajaj, Advocate
for the appellant.

Mr. Namit Khurana, Advocate
for respondent No.1.

Ms. Vandana Malhotra, Advocate
for respondent No.2.

None for respondent No.3.

CORAM: **HON'BLE MR. JUSTICE SHEKHER DHAWAN**

- 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?

SHEKHER DHAWAN, J.

The claimants have filed the present appeal seeking enhancement of compensation awarded by the

Motor Accident Claims Tribunal, Karnal

(for short 'The Tribunal').

Brief facts relevant for the purpose of decision of the appeal that on 02.08.2008, bus No.HR-45-6001 was parked on the road as the same was having some mechanical defects. A message was sent to the Roadways Authorities to send mechanics for repair purpose. Mangal Ram (since deceased) and other mechanics were deputed to repair the bus, who reached the spot and started repairing the bus by moving underneath the same. During that process, truck No.HR-46B-8898 which was being driven by respondent No.1 in a rash and negligent manner and at a very fast speed came from back side and hit against the parked bus. Mangal Ram was crushed under the tyre of the truck. The matter was reported to the police. Mangal Ram was taken to hospital for treatment and later on succumbed to the injuries on 22.08.2008. The claimants claimed compensation to the tune of ₹25 lacs.

The respondents contested the claim petition on all accounts.

'The Tribunal' after considering the material and evidence available on file awarded compensation of ₹5,13,275/-.

The claimants preferred the present appeal.

At the time of arguments, Mr. Sourabh Bajaj, learned counsel for the appellant took the plea that

'The Tribunal' has not awarded 'just compensation' because future prospects of earnings were not taken into consideration. Nothing was awarded on account of loss of love and affection to the family members. Minimum amount on account of consortium and funeral expenses was also not awarded.

Ms. Vandana Malhotra, learned counsel for respondent No.2-Insurance Company took the plea that 'The Tribunal' has already awarded 'just compensation'. The salary of the deceased was taken into consideration so as to determine the amount of compensation without their being any deduction on account of income tax. Self dependency has been rightly deducted as the claimants are four in the case, so the claim petition be dismissed.

Having considered the rival contentions raised by learned counsel for the parties, this Court is of the considered view that as per evidence available on the file Mangal Ram was of the age of 56 years at the time of accident. He was getting salary of ₹14,381/- at the time of accident and later on his salary was increased to ₹16,982/- with retrospective effect. The multiplier of 5 has also taken correctly keeping in view the age of the deceased to be 56 years. 'The Tribunal' has already taken the income of the deceased correctly. The salary has been rightly taken in this

case. However, 'The Tribunal' has not awarded minimum amount on account of funeral expenses and loss of consortium though one of the claimants is widow. As per law laid down by Hon'ble Supreme Court in case of **Rajesh and others Vs. Rajbir and others**, 2013(9) SCC 54, the claimants are entitled to receive a sum of ₹01 lac on account of consortium if one of the claimants is widow of the deceased and another sum of ₹25,000/- on account of funeral expenses against total sum of ₹10,000/- awarded by the Tribunal. However, 'The Tribunal' has already passed an award keeping in view the remaining medical expenses which remained unpaid to the claimants and the amount of ₹23,275/- has been awarded in the case. As regard to loss on account of love and affection, 'The Tribunal' has correctly recorded the findings that Vimal Tuli, Rajesh Tuli and Vishal Tuli were not dependent upon the income of Mangal Ram as Vimal Tuli and Vishal Tuli were running a shop and Rajesh Tuli was doing his private job. The total enhanced amount of compensation comes to ₹1,15,000/- on account of loss of consortium and funeral expenses (₹10,000/- already awarded as funeral expenses).

The enhanced compensation shall be paid within one month failing which the claimants shall be entitled to receive interest @ 7.5% per annum. However,

the remaining conditions regarding payment and disbursal of amount shall remain unaltered.

The appeal is accordingly partly allowed.

(SHEKHER DHAWAN)
JUDGE

May 01, 2015
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