

**219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.3689 of 2012 (O&M)

Date of Decision: April 20, 2015

Smt. Urmila

.... Appellant

vs.

Rajinder and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Parminder Singh, Advocate for the appellant.

Mr. R.K. Bashamboo, Advocate for respondent No.3.

1. Whether Reporters of Local Newspapers 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?

Kuldip Singh J.(Oral)

This is claimant's appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Karnal (in short 'the Tribunal').

Smt. Urmila widow of Shri Rattan Singh had filed a claim petition under Section 166 of the Motor Vehicle Act, 1988, stating therein that on 09.09.2007, her husband Rattan Singh was travelling TATA 407 bearing registration No.HR-10-A-1160, being driven by Joginder Singh son of Rattan Singh, that Rattan Singh and one Ramesh Kumar son of Kura Ram were sitting in the trolley of TATA 407. The deceased was carrying Rota Vator bought from Assandh. They were going to Aligarh at a very normal speed. The offending Canter bearing registration No.HR-38-L-9993 was going ahead of said TATA 407. All of sudden, the driver of the offending Canter brought his vehicle towards right hand side of the road and slowed

down his vehicle, due to which TATA-407 struck in the offending Canter. Rattan Singh and Ramesh Kumar received multiple injuries and were removed to PGI, Rohtak, where Rattan Singh succumbed to injuries.

At the time of the accident, the deceased was 50 years of the age and was a businessman and was dealing in the purchase and sale of mustard, chana, moong etc. and then used to sell the same at Barwala as well as in Rajasthan at different places. The Tribunal held that there was also negligence on the part of the driver of TATA-407, which belonged to the deceased and therefore, 1/4th cut was imposed. It was found that there was no record of the income of the deceased. Therefore, the income of the deceased was assessed @ ₹4,000/- per month. As the deceased was 50 years of age, after deducting 1/3rd, the multiplier of 13 was applied. The amount of compensation was calculated at ₹4,16,000/-(rupees four lac sixteen thousand only). ₹10,000/- each for loss of consortium and transportation and expenses on last rites were also allowed. It was also found that claimant has six married and unmarried children. The children of the deceased are not party in the present case either as claimants or respondents. However, the Tribunal ordered that out of the total compensation i.e. ₹4,26,000/-, which on actual calculation comes to ₹4,36,000/-. Bhim Singh(unmarried son) and Suman (unmarried daughter) of the deceased are also entitled to ₹50,000/- each and remaining amount shall go to Smt. Urmila widow of the deceased.

I have heard learned counsel for the parties and have also carefully gone through the case file.

The contention of learned counsel for the appellant is that in this case , ₹10,000/- granted on account of loss of consortium, is grossly inadequate.

I am of the view that in view of the authority laid down in case of “**Sarla Verma Vs. Delhi Transport Corporation**”, 2009(3) **RCR (Civil) 77**, ₹1,00,000/- on account of loss of consortium is to be allowed. Therefore, further amount of ₹90,000/- on account of loss of consortium is allowed. The Tribunal did not award any compensation on account of last rites and funeral expenses. Therefore, ₹25,000/- on account of last rites and funeral expenses are allowed. Since, unmarried children have not come forward to claim the compensation, therefore, they cannot be awarded compensation for loss of love and affection without any claim petition being filed on their behalf.

As a result of the foregoing discussion, the compensation is enhanced by ₹1,15,000/- (Rupees one lac fifteen thousand only), which shall go to the present appellant Smt. Urmila with interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

The appeal is accordingly allowed to the aforesaid extent.

April 20, 2015
sarita

(KULDIP SINGH)
JUDGE