

In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.4162 of 2012 (O&M)

.....

Date of decision:8.7.2015

Geeta Devi and others

.....Appellants

v.

Ram Dayal Chaudhary and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vikram Bali, Advocate for the appellants.

Mr. Amanjot Singh, Advocate for respondents No.1 and 2.

Mr. D.K. Prajapati, Advocate for Mr. R.S. Madan, Advocate
for respondent No.3.

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Inderjit Singh, J.

This appeal has been filed by claimants-Geeta Devi, Vidya and Kiran for enhancement of the compensation against Ram Dayal Chaudhary-driver, Hanuman Chander-owner and National Insurance Company Limited-insurer of Truck Tralla No.HR-55A-2279 (hereinafter referred to as 'the offending vehicle') challenging the award dated 11.4.2012 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal'), vide which an amount of ₹3,99,000/- has been granted as compensation to the claimants along with interest @7.5% per annum from the date of filing of the claim petition till realization of the amount. The

Tribunal took the age of the deceased Gopal Bahadur as 35 years, who died in a motor vehicular accident on 31.8.2003, when at about 12.30 p.m. he was going on his bicycle, which met with an accident with Truck Tralla bearing HR-55A-2279 being driven in rash and negligent manner by respondent No.1. The deceased who was stated to be a mason and by taking his income as ₹3,000/- per month, after making deduction of 1/3rd and after applying the multiplier of 16, loss of dependency as ₹2,000/- per month, the Tribunal has awarded compensation of ₹3,84,000/-. ₹5,000/- has been granted as transportation and last rites expenses and ₹10,000/- as compensation on account of consortium.

As per the facts of the case the claim petition was filed by Geeta Devi-widow of Gopal Bahadur, Vidya and Kiran minor children against the driver, owner and Insurance Company of the offending vehicle. The accident took place on 31.8.2003 at 12.30 p.m. when Gopal Bahadur (since deceased) was going on his bicycle, which was hit by the offending truck trola driven in rash and negligent manner by its driver.

Notice of motion in this case was issued. Mr. Amanjot Singh, learned Advocate has appeared on behalf of respondents No.1 and 2 and Mr. D.K. Prajapati, learned Advocate appearing for Mr. R.S. Madan, learned Advocate has appeared on behalf respondent No.3 and contested this appeal.

At the time of arguments, learned counsel for the appellants-claimants argued that the amount given on the ground of funeral expenses, loss of consortium is less and further that no amount has been awarded to

the minors on the ground of love and affection. Compensation on account of future prospectus has also not been awarded.

On the other hand, learned counsel for the respondents argued that the Tribunal has rightly calculated the compensation and there is no ground made out for enhancement.

I have heard leaned counsel for the parties and have gone through the record of the Tribunal.

From the record, I find that the Tribunal has taken the income of Gopal Bahadur (since deceased) at ₹3,000/- per month and age as 35 years and by making deduction of 1/3rd and by applying the multiplier of 16 calculated the compensation of ₹3,84,000/-. ₹5,000/- has been granted for funeral and transportation expenses and ₹10,000/- for loss of consortium. As per the law laid down by the Hon'ble Supreme Court in Rajesh and others v. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170, the persons, who are employed and less than 40 years of age, future prospectus @50% should have been granted. In this judgment, it was held that an amount of ₹1 Lac should be given as loss of consortium, ₹25,000/- for transportation and funeral expenses. Keeping in view the law laid down in this judgment by the Hon'ble Supreme Court and again as held by the Three Judges Bench of the Hon'ble Supreme Court in Munna Lal Jain and another v. Vipin Kumar Sharma and others, Civil Appeal No.4497 of 2015 (Arising from S.L.P. (C) No.8362 of 2013), decided on 15.5.2015, the Hon'ble Supreme Court has held that the future prospectus should be 50% in case of self-employed person. Further, I find that no compensation has been awarded

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towards the loss of love and affection to the minor claimants. Therefore, in view of the above discussion, the compensation is computed as under:-

1. Income of the deceased :₹3,000/- per month	
2. Adding of 50% as Future prospectus :₹4,500/- per month.	
3. After deducting 1/3 rd and applying the multiplier of 16, the dependency comes to ₹3,000 x 12 x 16	:₹5,76,000/-
4. For loss of consortium	:₹1,00,000/-
5. On account of love and affection to the minor children for two children @ ₹One Lac each.	:₹2,00,000/-
6. Funeral and transportation expenses	:₹ 25,000/-
Total	:₹ 9,01,000/-

Keeping in view the above facts and circumstances, the total amount of compensation comes to ₹9,01,000/-. The amount is enhanced accordingly. The enhanced amount of compensation will be paid by the Insurance Company along with the interest as awarded by the Tribunal and as per share as awarded by the Tribunal. The interest on the enhanced amount also will be paid from the date of filing of claim petition till actual payment. The Insurance Company is directed to pay the enhanced amount of compensation to the appellants accordingly.

The appeal is disposed of accordingly.

July 8, 2015.

(Inderjit Singh)
Judge

hsp