

In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.4633 of 2012 (O&M)

.....

Date of decision:28.7.2015

Balkaran Singh and others

.....Appellants

v.

Bagicha Singh and others

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Kuldeep V Singh, Advocate for the appellants.

Mr. B.S. Mittal, Advocate for respondents No.1 and 2.

Mrs. Vandana Malhotra, Advocate for respondent No.3.

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Inderjit Singh, J.

This appeal has been filed by Balkaran Singh and others-appellants/claimants against Bagicha Singh-Driver, Vikam Batria-owner and Chola mandlam MS General Insurance Company Ltd.-Insurer of truck bearing registration No.HR-57-2393 (hereinafter referred to as 'the offending truck') for enhancement of compensation amount of ₹2,85,000/- awarded by the Motor Accident Claims Tribunal, Mansa vide award dated 7.5.2012.

The brief facts of the case are that Balkaran Singh-father,

Hardeep Kaur-mother and Harpreet Kaur-sister of Surinder Singh alias Chudi (since deceased)-claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') against Bagicha Singh-driver, Vikam Batria-owner and Cholamandlam MS General Insurance Company Limited-Insurer of the offending truck on account of the death of Surinder Singh alias Chudi in a motor vehicle accident caused by respondent No.1 by rash and negligent driving of the offending truck on 27.2.2011 at about 1.30p.m. It is also in the petition that Surinder Singh alias Chudi (since deceased) was about 18 years of age at the time of death and he was unmarried. He had five acres of agricultural land and he had taken two acres land on lease. He was also keeping 5-6 buffaloes and used to sell milk and from his sources of income, he was earning ₹14,500/- per month.

The respondents appeared through counsel and contested this claim petition.

After framing issues and after the parties led the evidence, the learned Tribunal awarded compensation of ₹2,85,000/- by taking the income of the deceased at ₹3,000/- per month and after making deduction of 50% the dependency came to ₹1,500/- per month and ₹18,000/- per annum and by applying the multiplier of 15, ₹2,85,000/- compensation was awarded. ₹5,000/- were given towards funeral expenses and ₹5,000/- for loss of love and affection.

Notice of motion was issued in this case. Mr. B.S. Mittal, learned Advocate has appeared on behalf of respondents No.1 and 2 and

Mrs. Vandana Malhotra, learned Advocate has put in appearance on behalf of respondent No.3 and contested this appeal.

Learned counsel for the appellants argued that the income of the deceased has been taken on lower side. Even a labourer earns ₹4,500/- per month. Further the future proceedings @50% have not been awarded. He further argued that the compensation on the ground of funeral expenses and love and affection is also less.

I have gone through the record and have heard learned counsel for the parties.

From the record, I find that the Tribunal has wrongly assessed the income of the deceased at ₹3,000/- per month. The accident had taken place on 27.2.2011. Even a manual labourer earns ₹150/- per day by doing manual labourer. Therefore, the income of the deceased is assessed at ₹4,500/- per month.

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

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Hon'ble Supreme Court has held that the future prospectus should be 50% in case of self-employed person. Therefore, in view of the above discussion, the claimants are entitled to future prospectus @50%. Therefore, by adding the future prospectus, the income of the deceased comes to ₹6,750/- per month. After making 50% deductions, the dependency comes to ₹3,375/- per month. As the deceased was of 18 years of age, therefore, multiplier in this case will be applicable of 18 instead of 15 years as applied by the Tribunal. So, the compensation amounts comes to ₹3375/- x 12 x 18 = ₹7,29,000/-. Further, the claimants are entitled to ₹25,000/-towards funeral expenses etc.; ₹1 Lac towards love and affection.

Therefore, this appeal is allowed and the claimants are held entitled to total compensation amount of ₹8,54,000/-. The respondents are directed to pay the enhanced amount along with interest @7.5% per annum from the date of filing of claim petition till actual realization. The enhanced amount of compensation be given to Hardeep Kaur-appellant No.2 mother of the deceased.

The appeal is accepted accordingly.

July 28, 2015.

(Inderjit Singh)
Judge

hsp