

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

FAO No.6132 OF 2012 (O&M)
DATE OF DECISION : 25th AUGUST, 2015

Sulinder Kaur & others

.... Appellants

Versus

Vasu & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. S. S. Kamboj, Advocate for the appellant.

Mr. V. Ramswaroop, Advocate for respondent No.3.

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SURINDER GUPTA, J. (ORAL)

This is an appeal by claimants, who are not satisfied with the compensation allowed vide award dated 14.05.2012 passed by Motor Accident Claims Tribunal, Chandigarh (herein referred as the Tribunal). The Tribunal allowed compensation of ₹8,84,000/- for the death of Mohan Singh (herein referred as deceased) in accident on 02.08.2003 when his truck bearing No.HR-37-A-6126 was hit by the truck bearing registration No.KA-01-AA-3040 (later referred as offending vehicle), holding that offending vehicle was being driven by respondent No.2-C.M. Raja in a rash and negligent manner. As the factum of accident and negligence of respondent No.2 is not in dispute, the facts are not required to be discussed in detail.

The Tribunal while calculating the compensation of ₹8,84,000/- has taken the income of deceased as ₹4,000/-, after adding 50% towards future prospects and applying a deduction of 1/4th of the income towards personal expenses, the amount of compensation was calculated in the manner tabulated as follows:

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Salary	₹4,000 per month
(ii)	50% of (i) above to be added as future prospects	(₹4,000+ ₹2,000)= (₹6,000 per month)
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	(₹6,000-₹1500)= ₹4,500 per month
(iv)	Compensation after multiplier of 16 is applied	(₹4500X12X14)= ₹8,64,000
	Loss of Estate	₹5000/-
	Funeral Expenses	₹5,000/-
(v)	Loss of consortium	₹10,000
<i>Total</i>		₹8,84,000

Learned counsel for the appellants has argued that the accident had taken place in Karnataka about 150 kilometers from Mangalore. Claimants had to spend a lot of money in bringing the dead body of the deceased from Mangalore and this fact has not been taken into account by the Tribunal while awarding compensation of ₹5,000/- towards funeral expenses. He further argues that as per the observation in the case of ***Rajesh & others versus Rajbir Singh & others***, reported as ***2013(3) RCR (Civil), 170*** a sum of ₹1,00,000/- was to be allowed to petitioner No.2- Swaranjit Kaur wife of the deceased towards loss of consortium. The petitioner has left behind two minor children and the Tribunal has not

allowed any compensation on account of loss of love and affection, care and guidance to the minors and the widowed mother.

Learned counsel for the respondent argues that the accident had taken place in the year 2003. At that time the price index was on lower side but still the Tribunal has awarded the compensation by taking into account the latest observation of the Apex Court in the case of *Rajesh & others (supra)*.

So far as the income of the deceased and allowing of future prospects is concerned, the same requires no interference in this appeal. The deceased left behind his wife, two sons and mother. The Tribunal has relied upon the observation in the case of *Sarla Verma & others vs. Delhi Transport Corporation & another*, reported as *2009 ACJ 1298 (SC)*, while applying $\frac{1}{4}$ deduction towards personal expenses which is also appropriate. Even otherwise the appellant was a truck driver who had to remain out of his home for most part of the year, as such, had to spend more towards his personal expenses than a person who lives at home.

The Tribunal has awarded ₹5,000/- towards funeral expenses. It is admitted that the death had taken place in Karnataka. The claimant must have spent a lot of amount in bringing the dead body to Chandigarh for cremation.

Keeping in view the above facts the compensation towards funeral expenses is enhanced to ₹50,000/- as in the case of *Vimal Kanwar & others versus Kishore Dan & others*, reported as *2013(2) RCR (Civil) 945*, the funeral expenses were allowed ₹25,000/- for the death which was caused due to accident at the place where the deceased was residing.

Under the conventional head i.e. for the loss of love and affection and guidance to the minor children and widowed mother, no compensation was allowed by the Tribunal. The same is awarded as ₹1,00,000/-+ ₹ 50,000/- i.e. ₹1,50,000/- and for the loss of consortium for the wife as ₹1,00,000/-.

In view of my above discussion the appeal is allowed and the compensation allowed for the death of Mohan Singh is enhanced from ₹8,84,000/- to ₹10,84,000/- with interest at the rate as allowed by the Tribunal. The interest shall be payable from the date of filing of claim petition till the date of realization of entire compensation. The amount of compensation shall also be shared in the same proportion as ordered by the Tribunal.

25th August, 2015
'raj'

(SURINDER GUPTA)
JUDGE