

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.6168 of 2012 (O&M)
Date of Decision: 29.05.2015

Sinder Pal and another

..... APPELLANTS

VERSUS

Sanjiv Kumar and others

..... RESPONDENTS

PRESENT: - Mr. Maharaj Kumar, Advocate
for the appellants.

None for respondents No.1 and 3.

Mr.Sandeep Goyal, Advocate
for respondent No.2.

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.

CM No.29061-CII of 2012

Prayer has been made for condonation of

delay of 62 days in refiling the appeal.

In view of the grounds taken in the application, the same is allowed. Delay of 62 days in re-filing the appeal is condoned.

FAO No.6168 of 2012

The present appeal is challenge to the award dated 05.04.2012 passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'The Tribunal') whereby 'The Tribunal' awarded compensation of ₹2,91,800/- on account of death of Rajesh.

The relevant facts for the purpose of decision of appeal that on 19.02.2010 at about 2.00 P.M., Ram Mehar and Rajesh were going from Nissing to Karnal on motor cycle bearing registration No.HR 05Z 5768 which was being driven by Ram Mehar. The said motor cycle struck against TATA Truck bearing registration No.HR-26-5525 as the same truck was being driven by its driver in a rash and negligent manner. Ram Mehar and Rajesh sustained injuries. Ram Mehar was taken to General Hospital, Karnal and later on he was referred to PGI, Chandigarh. Rajesh succumbed to injuries in General Hospital, Karnal. The matter was reported to the police. The claimants claimed compensation to the tune of ₹15 lacs on account of death of Rajesh and the claim petition has been filed by his parents, namely, Sinder

Pal and Lila Devi. The second claim petition was filed by injured-claimant Ram Mehar, who sought compensation of ₹10 lacs thereby taking the plea that he had spent an amount of ₹03 lacs on his treatment. Apart from that, he suffered much agony and the accident resulted into loss of income.

Respondents contested the claim petition and 'The Tribunal' awarded the compensation.

Claimants Sinder Pal and Lila Devi being dis-satisfied with the awarded amount are in appeal before this Court.

At the time of arguments, Mr.Maharaj Kumar, learned counsel for the appellants took the plea that 'The Tribunal' has not awarded 'just compensation' though the fact that Rajesh was young boy of 18 years and was unmarried. The amount of compensation was to be awarded keeping in view the age of the deceased whereas the Tribunal has taken the income of the parents for calculating the amount of compensation. The correct multiplier has also not been applied, which was to be taken as per the age of the deceased. The minimum amount on account of funeral expenses and love and affection has also not been awarded in this case. So, the awarded amount be enhanced suitably.

Mr.Sandeep Goyal, learned counsel for respondent

No.2 owner of offending truck took the plea that 'The Tribunal' has rightly calculated the amount of compensation and appeal is without any merit.

Having considered the rival contentions, this Court is of the considered view that 'The Tribunal' has rightly taken the income of the deceased to be ₹36,00/- per annum as the accident had taken place on 19.02.2010 and income of the deceased was not proved on the basis of any documentary evidence. However, 'The Tribunal' fell in error while deducting 50% of the amount on account of self dependency. The age of the deceased has not been taken into consideration.

As per law laid down by Hon'ble the Supreme Court in cases of Puttamma and others Vs. K.L. Narayana Reddy and another, 2014 (1) Recent Apex Judgments (R.A.J.) 1, The Managing Director, TNSTC Vs. Sripriya and others, 2007(2) RCR(Civil) 422 and R.K. Malik and another Vs. Kiran Pal and others, 2009(3) RCR (Civil) 403, the age of the deceased is to be taken into consideration for dependency. The amount of compensation to be calculated and 1/3rd is to be deducted on account of self dependency. 'The Tribunal' has not awarded minimum amount on account of funeral expenses and loss of love and affection for the parents as per law laid down by Hon'ble Supreme Court in case of

Rajesh and others Vs. Rajbir and others, 2013(9) SCC

54. Accordingly, the amount of compensation is re-assessed as under:

1	Annual income of the deceased	₹43,200/-
2	Less 1/3 rd on account of self dependency as claimants (₹43,200/---₹14,400/-)	₹28,800/-
3	Multiplier 18 (₹28,800/-x18)	₹5,18,400/-
4	Loss of consortium, love and affection	₹1,00,000/-
5	Funeral Expenses	₹25,000/-
7	Total	₹6,43,400/-
	Less already awarded	₹2,91,800/-
8	Enhanced compensation	₹3,51,600/-

The enhanced compensation shall be payable from the date of claim petition. The enhanced amount shall be payable within 45 days from today failing which the appellants shall also be entitled to receive interest @ 7.5% per annum from the date of claim petition till actual payment.

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

The appeal is accordingly partly allowed.

(SHEKHER DHAWAN)
JUDGE

May 29, 2015

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