

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

**FAO No.1627 OF 2013 (O&M)
DATE OF DECISION : 4th SEPTEMBER, 2015**

Ganga Devi & another

.... Appellants

Versus

Tara Singh

.... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Ms. Ekta Thakur, Advocate for the appellants.

Mr. N. S. Goray, Advocate for respondents No.1 & 2.

Mr. Eklavya Darshi, Advocate for respondent No.3.

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SURINDER GUPTA, J. (ORAL)

1. This appeal has been filed by the claimants Ganga Devi and Kaushalya, seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, SAS Nagar, Mohali (later referred to as the Tribunal) for the death of Ram Naresh, aged 23 years, in a motor accident with truck bearing registration No.PB-05J-9719 (later referred to as the offending vehicle)

2. The case of the claimants in brief is that on 01.04.2011 Ram Naresh along with Parbhakar were going on a cycle to their place of work in JCBL Factory, Lalru, Tehsil Dera Bassi, District Mohali. At about 8.20am when they were standing near divider of the road to cross, the offending vehicle which was being driven by respondent No.1 in a rash and

negligent manner, came from behind and hit the deceased and Parbhakar. On account of the accident both along with their cycle were dragged to a distance of about eight feet. While Ram Naresh suffered multiple grievous injuries and died on the spot Parbhakar suffered fracture of his left knee. The deceased was working as Painter in JCBL Factory, Lalru and was earning ₹6000/- per month.

3. In the written statement filed by respondents No.1 and 2 i.e. the driver and owner of the offending vehicle the accident was denied. Respondent No.3-insurance company in its written statement denied that the truck was involved in the accident and also took the plea that the driver of the offending vehicle was not holding valid licence or route permit at the time of accident.

4. Pleadings of parties led to the framing of issues as follows:

- i) Whether Ram Naresh died in a motor vehicular accident occurring on account of rash and negligent driving of truck No.PN-05J-9719 by respondent No.1? OPC
- ii) Whether the claimants are entitled to compensation on account of death of Ram Naresh in the accident, if so to what extent and from whom? OPC
- iii) Whether the respondent No.1 was not holding legal and valid driving licence at the time of accident, if so its effect? OPR-3

iv) Whether the respondent No.2 had committed breach of terms and conditions of the insurance policy, if so its effect? OPR-3

v) Relief

5. The Tribunal assessed the income of the deceased as ₹4,000/- per month and after applying deduction of $\frac{1}{2}$ towards the personal expenses of the deceased, calculated the dependency as ₹2,16,000/- by applying the multiplier of 9 as per the age of the claimant Ganga Devi. A sum of ₹5,000/- was added to the above amount towards funeral expenses and ₹5,000/- for loss of consortium. Total compensation of ₹2,26,000/- was allowed with interest @ 9% per annum from the date of filing of the claim petition till the realization of the amount.

6. Learned counsel for the appellant has sought the enhancement of compensation on following grounds:

- i) The tribunal has not allowed 50% of the actual income of the deceased towards future prospects.
- ii) The funeral expenses has been allowed as ₹5,000 instead of ₹25,000/-.
- iii) The Tribunal has wrongly allowed ₹5,000/- towards loss of consortium while the compensation for love and affection was required to be allowed to the mother i.e. claimant-appellant No.1.

7. Learned counsel for the respondents has argued that the deceased was unmarried and the claimants are the mother and sister of the

deceased. The sister was not a dependent, as such, no amount can be allowed towards loss of love and affection to the claimants.

8. It is no more res integra that the multiplier, while calculating the amount of dependency, is to be applied keeping in view the age of the deceased and not the age of the claimant(s). Reference in this regard can be made to the observations made in the case of ***Sarla Verma & others vs. Delhi Transport Corporation & another***, reported as ***2009 ACJ 1298 (SC)***. The deceased was 23 years of age as such multiplier applicable to the instant case is 18. As held in the case of ***Rajesh and others versus Rajbir Singh and others, (2013) 9 SCC, 54*** and ***Munna Lal Jain versus Vipin Kumar Sharma***, reported as ***(2015) 6 SCC, 347*** in a case of self employed victim below 40 years of age, there must be an addition of 50% to his actual income while computing future prospects.

9. Allowing of ₹5,000/- for loss of consortium appears to be a mistake, while the claimant No.1-mother and claimant No.2-sister of the deceased are entitled to the compensation to the tune of ₹1,00,000 towards loss of love and affection. The amount of compensation allowed for funeral expenses is also revised as ₹25,000/-. On account of the above the compensation to which the claimant are entitled works out 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)	½ of (ii) deducted as personal expenses of the deceased	₹6,000-₹3000= ₹3,000 per month

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(iv)	Compensation after multiplier of 18 is applied	₹3,000 X 12 X 18 = ₹6,48,000/-
(v)	Loss of love and affection and loss to the estate	₹1,00,000/-
(vi)	Funeral Expenses	₹25,000/-
<i>Total</i>		₹7,73,000

10. As a result of my above discussion this appeal is allowed to the extent that the amount of compensation already allowed is enhanced to ₹7,73,000/-. In addition to it the claimants shall also be entitled to interest on the amount of compensation from the date of filing of the award till the date of actual payment @ 7.5 per cent per annum. As an incentive to respondent No.3 to make payment at the earliest, it is ordered that in the event of the entire payment being released within a period of three months from the date of this judgment, the future interest shall be payable @ 7 % per annum instead of 7.5% per annum. The counsel fee is assessed @ ₹20,000/-.

4th September, 2015
‘raj’

(SURINDER GUPTA)
JUDGE