

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

**FAO No. 1185 of 2014**

**Date of Decision: September 7, 2015.**

Nirmala Devi and others

..... APPELLANT (s)

**Versus**

Prem Kumar and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Jaideep Verma, Advocate  
for the appellants.

Mr. M.B.Jain, Advocate and  
Mr. Punit Jain, Advocate  
for respondent No.3 – Insurance Company.

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1. Whether reporters of 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?

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**LISA GILL, J.**

Present appeal has been preferred by the claimants praying for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as, the 'Tribunal') vide impugned award dated 02.01.2014 on account of death of Darshan Singh @ Darshan Lal. Claimants are the widow, three minor children and mother of the deceased.

As per the claim petition, Darshan Singh @ Darshan Lal aged 43 years at the time of accident, was working as a cleaner on a truck and earning ₹20,000/- per month. Darshan Singh @ Darshan Lal alongwith Manoj Kumar

were coming from Delhi to Una on truck No. HP-65-1260 on 02.09.2012 at about 2.30/3.00 a.m. When they reached near village Lakhnaur, tyre of the truck burst. Both Darshan Singh @ Darshan Lal and Manoj Kumar got down from the truck and were standing on the katcha berm of the road. Meanwhile, a WagonR car bearing registration No. DL-2CV-7940 came from behind at a very high speed driven in a rash and negligent manner without blowing horn, struck against Darshan Singh @ Darshan Lal, who died on the spot due to the injuries sustained by him. FIR No.145 (Ex.P1) dated 02.09.2012 was registered at Police Station Kurali.

Claim petition under Section 166 of the Motor Vehicles Act, 1988 was preferred by the claimants claiming compensation to the tune of ₹30,00,000/-. Claim was resisted by the respondents i.e., driver, owner as well as the Insurance Company. Following issues were framed by the Tribunal:-

- “1. Whether on 2.9.2012 the accident took place with WagonR Car baring No.DL-2CV-7940 due to rash and negligent driving of Prem Kumar respondent No.1 which resulted into death of Darshan Singh alias Darshan Lal?OPP
2. Whether the claimants are entitled to receive compensation? If so, to what amount and from whom? OPP
3. Whether respondent No.1-driver of the offending vehicle was not holding a valid and effective driving license and other documents at the time of alleged accident?OPR-3
4. Whether the claim petition is not maintainable?OPR
5. Relief.”

On appreciation of the evidence on record, learned Tribunal concluded that accident in which Darshan Singh @ Darshan Lal lost his life was caused due to the rash and negligent act on the part of the driver of offending

WagonR car No.DL-2CV-7940.

Having held that the claimants failed to establish the deceased to be receiving a salary of ₹10,000/- per month, income of Darshan Singh @ Darshan Lal was assessed as ₹6,000/- per month. 30% (i.e., ₹1,800/-) addition on account of loss of future prospects was afforded. Income was thus assessed at ₹7,800/- per month i.e., ₹93,600/- per annum. 1/3<sup>rd</sup> deduction was effected towards personal expenses of the deceased and the annual dependency of the claimants was worked out at ₹62,400/-. Age of the victim being 43 years at the time of accident, multiplier of 14 was applied and loss of dependancy was calculated at ₹8,73,600/- (62,400x14) by the Tribunal. Towards loss of consortium, ₹10,000/- and towards funeral expenses ₹5,000/- were awarded. Total compensation of ₹8,88,600/- was awarded by the learned Tribunal to the claimants.

Learned counsel for the appellants submits that age of the deceased has been wrongly held to be 43 years whereas, he was 35 years old at the time of accident. Reference is made to the post-mortem report wherein, the age of deceased is mentioned as 35 years. It is submitted that a meagre compensation has been awarded which is liable to be enhanced.

Learned counsel for respondent No.3, on the contrary, refutes the said averments and submits that reasonable and just compensation has been afforded by the Tribunal which needs no further enhancement.

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

Contention of learned counsel for the appellants that the deceased

was aged 35 years at the time of accident is clearly misconceived in view of the documents produced by the claimants themselves. Adhaar Card, Ex.P2 of the deceased was placed on record which reflects his age to be 43 years. Therefore, his age is rightly taken as 43 years at the time of accident.

However, deduction of 1/4<sup>th</sup> instead of 1/3<sup>rd</sup> as has been effected by the Tribunal, is required to be made in this case as the number of dependants/claimants is five as has been held by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77.**

Learned Tribunal has already afforded addition in the income of deceased on account of loss of future prospects. Income of the deceased was, thus, rightly assessed at ₹7,800/- per month i.e., ₹93,600/- per annum. Applying a deduction of 1/4<sup>th</sup> instead of 1/3<sup>rd</sup>, dependency is reworked out as ₹5,850/- per month i.e., ₹70,200/- per annum. Applying a multiplier of 14, loss of dependency comes to ₹9,82,800/- (70,200x14). In terms of the dictum of Hon'ble Supreme court in **Rajesh and others v. Rajbir Singh and others, 2013 (3) RCR(Civil)170(SC)**, claimants are entitled to enhanced compensation on certain other heads as detailed below:-

| <i><b>Sr.No.</b></i> | <i><b>Heads of Claim</b></i>                                                      | <i><b>Amount</b></i> |
|----------------------|-----------------------------------------------------------------------------------|----------------------|
| 1.                   | Loss of Dependency<br>(5850x12x14)                                                | ₹9,82,800/-          |
| 2.                   | Loss of consortium                                                                | ₹1,00,000/-          |
| 3.                   | Loss of love and affection towards children<br>at the rate of ₹50,000/- per child | ₹1,50,000/-          |
| 4.                   | Loss of love and affection towards mother                                         | ₹50,000/-            |
| 5.                   | Funeral expenses                                                                  | ₹25,000/-            |
|                      | <b>Grand Total</b>                                                                | <b>₹13,07,800/-</b>  |

The compensation already awarded by the Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization.

With the above modification in the quantum of compensation, this appeal is disposed of.

September 7 , 2015.  
'om'

**( LISA GILL )**  
**JUDGE**