

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 3117 of 2013 (O&M)

Date of decision : 11.09.2015

Jaswinder Kaur and others

.....Appellants

Versus

Satwant Singh and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sandeep S. Majithia, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No. 2- Insurance Company.

LISA GILL, J.

Present appeal has been filed by the claimants i.e. widow and four minor children for enhancement of the compensation awarded to them by the learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the 'Tribunal') on account of death of Surinder Singh @ Rana.

Brief facts are that Surinder Singh @ Rana aged 30 years was returning home on 06.12.2009 at about 7.30 p.m. alongwith his cousin Balbir Singh after loading a truck with paddy husk at M/s Bansal Agro Mill. They were proceeding on separate bicycles and when they reached near Malwa Dharma Kanda, car No. PB-10-BS-

9644 being driven by respondent No. 1 Satwant Singh in a rash and negligent manner struck against Surinder Singh's bicycle. Surinder Singh @ Rana fell due to the impact and the offending vehicle crushed him. He received fatal injuries and died at the spot. Respondent No. 1 fled from the spot. Post Mortem was conducted at Civil Hospital, Ludhiana. Post Mortem Report is Ex. C4. FIR No. 190 dated 07.12.2009 under Sections 279, 304-A and 427 IPC was registered at Police Station Dakha, Ludhiana on the statement of Balbir Singh.

Claim petition was preferred by the appellants under Section 166 of Motor Vehicles Act claiming compensation to the tune of ₹20 lakhs. Deceased was claimed to be 30 years old earning a sum of ₹15,000/- per month.

Claim was contested by the respondents. Following issues were framed by the learned Tribunal:-

1. Whether Surinder Singh @ Rana died in the motor vehicular accident, which occurred on 06.12.2009 at 19.30, near Malwa Kanda Mullanpur due to rash and negligent driving of vehicle No. PB-10BS-9644 by respondent No. 1? OPP
2. Whether the claimants are the legal representatives of Surinder Singh @ Rana deceased? OPP
3. Whether respondent No. 1 was not holding valid driving licence at the time of accident? OPR-2
4. Whether offending vehicle was not having valid insurance policy at the time of accident? OPR-2
5. To what amount of compensation, the claimants are entitled for and from which of the respondents? OPP
6. Relief.

Learned Tribunal on consideration of facts and evidence on record concluded that the accident in which Surinder Singh @ Rana lost his life was caused on account of rash and negligent driving of offending vehicle No. PB-10BS-9644 by respondent No. 1 – Satwant Singh. Said finding is informed to have attained finality.

Learned Tribunal assessed monthly income of the deceased to be ₹3,500/- per month and ₹42,000/- per annum while considering him to be a manual workman as there is no evidence on record to prove him be trained in any profession or carrying out any particular work. 1/3rd deduction was afforded on account of personal expenses and loss of dependancy calculated as ₹3,92,000/- after applying multiplier of 14, considering his age to be 32 year as per Post Mortem Report. Total compensation to the tune of Rs.3,92,000/- was awarded by the Tribunal.

Learned counsel for the appellants submits that an extremely meagre compensation has been afforded which should be enhanced. No compensation has been afforded for loss of consortium, loss of love and affection as well as funeral expenses.

Learned counsel for respondent No. 2 – insurance company prays for upholding the compensation awarded while submitting that there is no evidence on record to justify any further enhancement.

Having heard learned counsel for the parties and going through the record, it is clear that there is no evidence on record to suggest income of the deceased being higher than ₹3,500/- as assessed by the learned Tribunal. Income has, thus, been correctly

assessed as ₹3,500/- by the learned Tribunal. However, keeping in view the number of dependants i.e. five, deduction of 1/4th has to be effected instead of 1/3rd as has been done by learned Tribunal. This is in consonance with the guidelines laid down by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77. Appropriate multiplier to be applied is of 16 and not 14.

As per the decision of the Hon'ble Supreme Court in **Rajesh and others versus Rajbir Singh and others** 2013 (3) RCR (Civil) 170 and various other decisions, widow is entitled to compensation of ₹1,00,000/- for loss of consortium. There being four minor children it is considered expedient to award ₹50,000/- each on account of loss of love and affection. ₹25,000/- is awarded towards funeral expenses.

Claimants are, thus, entitled to enhanced compensation detailed as under:-

Loss of dependency (3500x12x16)	₹6,72,000/-
Loss of consortium	₹1,00,000/-
Loss of care and guidance @ 25,000/- per child (25,000x4)	₹2,00,000/-
Funeral/transportation expenses	₹ 25,000/-
Total	₹9,97,000/-

Amount of compensation already awarded to the appellants shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition

till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

At this stage, Ms. Vandana Malhotra urges that interest should not be awarded to the appellants for the period of delay in filing of this appeal which stands condoned by this Court. Per contra learned counsel for the appellants argues that claim petition was filed within limitation. Appeal was delayed because appellants are widow of the deceased, an illiterate lady and her minor children having no knowledge about intricacies of law. Delay in filing of the appeal has been condoned by this Court.

I find no merit in contention of learned counsel for the respondents that interest for the period of delay in filing of the appeal which stands condoned should not be awarded. Keeping in view the peculiar circumstances of this case, there is no reason for denying interest upon the awarded amount to the claimants.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

(Lisa Gill)
Judge

September 11, 2015
rts