

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 3189 of 2013

Date of Decision:- 15.07.2015

Meenu Rani and others

.....Appellants

Versus

Dalel Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. R.C. Gupta, Advocate, for the appellants.

Mr. D.K. Prajapati, Advocate
for Mr. R.S. Madan, Advocate
for respondent No.3-Insurance Company.

SHEKHER DHAWAN, J.

Present appeal is challenge to the Award dated 28.02.2013 whereby the Motor Accidents Claims Tribunal, Ambala (hereinafter to be referred as 'The Tribunal') awarded compensation of ₹45,40,000/- on account of death of Kiran Pal.

2. Relevant facts for the purpose of decision of the present appeal that on 29.08.2011, Kiran Pal (since deceased) was going from Ambala to Pehowa to attend Net Software complaint on motorcycle bearing registration No.PB-20A-5140. He was going on his correct left side of the road. His brother Satpal Singh and Rakesh Sharma were

following him on separate motorcycle. At about 08.00 a.m., when they reached in the area of village Lotni, trucks-trolla-carrier bearing registration No.HR-56-A-1378 and HR-56-A-1458 came from back side. Truck trolla No.HR-56-A-1378 was ahead of amongst the two. After overtaking motorcycle of Satpal Singh and Rakesh Sharma, truck trolla No.HR-56-A-1378 hit against motorcycle of Kiran Pal while coming to the extreme left side of the road on *kacha berm*. As a result of that, Kiran Pal sustained multiplier and greivous injuries. The driver of both the trucks stopped their respective vehicles at a distance of 50-60 yards and thereafter fled away from the spot. The matter was reported to the police vide FIR No. 89 dated 29.08.2011 was registered. Kiran Pal was of the age of about 33 years and was earning ₹25,359/- per month as salary and ₹1,25,000/-per annum from agriculture. The claimants claimed compensation to the tune of Rs.1 crore. Respondents contested the claim petition on all accounts. 'The Tribunal' after considering the material evidence available on file, awarded compensation of ₹45,40,000/-. Being dissatisfied with the awarded amount, the appellants-claimants are in appeal before this Court.

3. Learned counsel for the appellants took the plea that most of the facts are not disputed that Kiran Pal (since deceased) was of the age of 33 years . He was having proved salary income of ₹25,359/-. Apart from that, he was having agriculture income from four acres of land but 'The Tribunal' has completely ignored his agricultur el income while ascertaining the amount of compensation. 'The Tribunal' has not awarded

any amount on account of consortium and love and affections for the minors. Minimum amount on account of funeral expenses has not been awarded.

4. Learned counsel for respondent No.3-Insurance Company, took the plea that 'The Tribunal' has already awarded just compensation. Rather income tax has not been deducted from salary income and on that account compensation amount is to be reduced. As regards to agriculture income, learned counsel for respondent No.3 took the plea that there was no loss to the deceased as agricultural income was intact after death of Kiran Pal. So, the appeal is without any merit and same be dismissed.

5. Having considered the rival contentions raised by counsel for both the parties, this Court is of the considered view that 'The Tribunal' has already assessed compensation keeping in view the salary income of the deceased to be ₹25,359/-. The liability on account of income tax has been taken care by 'The Tribunal' and that way the income was to be ₹25,000/- only against Rs.25,359/-. 'The Tribunal' has not considered the agriculture income of the deceased although he was owner of four acres of land. Appellants are certainly entitled to seek enhancement on that account. The plea taken by learned counsel for respondent No.3 is not tenable that even after death of Kiran Pal there is no loss of income as the agricultural land is still intact. It is not believable that an adult family member of the age of 33 years, who had been looking after the agricultural land, there is no loss of income after death of such a land owner. Though there is no proof regarding income from four acres of

land. But taking reasonable amount on account of income from four acres of agricultural land, the same can be taken to be ₹10,000/- per annum. That way, compensation amount is to be reassessed by taking addition of income of ₹10,000/- on account of agricultural land. Apart from that, the claimants are certainly entitled to receive ₹25,000/- on account of funeral expenses, a sum of ₹1,00,000/- each for loss of love and affection for two minor children and a sum of ₹1,00,000/- on account of loss of consortium for widow. That way, the total amount of compensation is reassessed as under: -

Annual income from salary	₹25,000/- x 12 = ₹3,00,000/-
Addition on account of agricultural income	₹3,00,000/- + ₹10,000/- = ₹3,10,000/-
Applying multiplier of 15	₹3,10,000/- x 15 = ₹46,50,000/-
Loss on account of consortium	₹1,00,000/-
Loss on account of love and affection for three minor sons	₹2,00,000/-
Loss on account of funeral expenses	₹25,000/-
Total compensation	₹46,50,000/- + ₹1,00,000/- + ₹2,00,000/- + ₹25,000/- = ₹49,75,000/-
Already awarded compensation	₹45,40,000/-
Enhanced amount of compensation	₹49,75,000 - ₹45,40,000 = ₹4,35,000/-

6. The enhanced amount of compensation of ₹4,35,000/- shall be payable from the date of claim petition along with interest @ 7.5% per annum from the date of claim petition. Remaining conditions of disbursal of amount shall remain unaltered.

7. Accordingly, the present appeal is accepted partly.

July 15, 2015
naresh.k

(SHEKHER DHAWAN)
JUDGE