

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.3280 of 2013 (O & M)

Date of Decision: *September 23, 2015*

Shashi & others

..... APPELLANTS

VERSUS

Vicky & others

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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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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PRESENT: - Mr. Sandeep Goyat, Advocate, for the appellants.

Dr. Anand Kumar Bishnoi, Advocate, for respondent Nos.1 and 2.

Mr. Pardeep Goyal, Advocate, for respondent No.3 – Insurance Company.

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Jaspal Singh, J

1. The instant appeal has been preferred by claimants – appellants seeking enhancement of compensation awarded to them by the Motor Accident Claims Tribunal, Hisar

(for short, 'Tribunal') vide Award dated December 13, 2012 in Claim Petition No.76-MACT dated March 10, 2011 titled Shashi & others vs. Vicky & others whereby they have been awarded compensation to the tune of ₹ 8,51,200/- on account of death of Krishan Kumar (husband of appellant No.1 and father of appellant Nos.2 & 3) in a vehicular accident involving Indica Car No.HR-20P/2422 (for short, 'offending vehicle').

2. Briefly facts of the case are that on February 7, 2012, Krishan Kumar (deceased) alongwith his wife was coming from Meerut towards Satrod Kalan through offending car, being driven by respondent No.1 in a rash and negligent manner. When they reached near TCP Gate No.3, Hisar Cantt., suddenly a bull came on the road in front of the offending vehicle. Respondent No.1 directly hit the offending vehicle against the bull, as a result of which, Krishan Kumar sustained multiple injuries. He was taken to N.C. Jindal Hospital, Hisar but he was declared as dead by the doctor.

3. The appellants preferred a claim petition before the Tribunal seeking compensation. The petition was contested by the respondents by filing written statements. From the pleadings of the parties, issues were framed. In order to prove

their respective cases, parties led evidence, oral as well as documentary.

4. After hearing learned counsel for the parties and on appraisal of evidence, the claimants – appellants were awarded a sum of ₹ 8,11,200/- towards loss of income due to death of Krishan Kumar; ₹ 20,000/- towards loss of consortium; and ₹ 20,000/- towards funeral expenses, totaling ₹ 8,51,200/- vide the impugned award. Liability to pay the compensation has been fastened upon the respondents, jointly and severally.

5. Dis-satisfied by the aforesaid award, the claimants have approached this Court seeking enhancement of compensation.

6. While assailing the impugned award, learned counsel for the appellants has contended that compensation awarded by the Tribunal is on lower side and thus, liable to be enhanced. Funeral expenses have been granted to the tune of ₹ 20,000/- only. No compensation has been awarded towards love & affection. Krishan Kumar was 50 years of age at the time of death and was the sole bread winner of the family.

7. Learned counsel for the respondents have contended that award of the Tribunal is based on conjectures and surmises. There is no evidence to establish that the accident

occurred due to rash and negligent driving of offending vehicle i.e. Indica, in which, the appellant succumbed to injuries.

8. This court has given an anxious thought to the rival submissions made by learned counsel for the parties and gone through the record available.

9. The Tribunal has assessed the income of Krishan Kumar at ₹ 6,000/- per month and the same has been increased by 30% in consideration of the future prospects. Thus, total income of Krishan Kumar was finally calculated at ₹ 93,600/- per annum. Multiplier of 13 has been awarded. ₹ 20,000/- towards loss of consortium and ₹ 20,000/- towards funeral expenses have been awarded which are not in consonance with the law laid down by Hon'ble Apex Court in Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77. Nothing has been awarded towards loss of love & affection. Thus, the impugned award deserves to be modified.

10. Krishan Kumar was the sole bread earner of the family and left behind his wife and two children of the age of 17 & 19 years. He lost his life on February 7, 2012 in a vehicular accident. He was running a shop of sweets. The Tribunal has assessed his income to the tune of ₹ 6,000/- per month and has rightly applied a multiplier of 13 keeping in view the guidelines

laid down by the Hon'ble Apex Court in case Sarla Verma (supra). However, the claimants are entitled to compensation on account of loss of love & affection which is granted to the tune of ₹ 1,00,000/-. Similarly, compensation awarded on account of funeral expenses is enhanced by ₹ 5,000/- (total ₹ 25,000/-) and loss of consortium is enhanced by ₹ 80,000/- (total ₹ 1,00,000/-).

11. In the light of what has been discussed above, the appeal is partly allowed. The claimants are entitled to the enhanced compensation to the tune of ₹ 1,85,000/- (₹ 10,36,200/- - ₹ 8,51,200/-). The payment of enhanced compensation shall be paid within 60 days from the date of receipt of certified copy of this order. On failure, interest @ 7.5% per annum shall follow from the date of institution of the claim petition before learned Tribunal, till its actual payment.

September 23, 2015

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(Jaspal Singh)
Judge