

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.3326 of 2013 (O & M)

Date of Decision: February 23, 2015

Surjit Kaur & another

..... APPELLANT(S)

VERSUS

Jaspal Singh & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

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. Rakesh Gupta, Advocate, for the appellants.

Mr. P.S. Bajwa, Advocate, for respondent Nos.1 and 2.

Mr. Rajesh Verma, Advocate, for respondent No.3.

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Jaspal Singh, J

1. Instant appeal has been preferred by the claimants seeking enhancement of compensation on account of death of their son Swaran Singh, who succumbed to injuries received in a motor

vehicular accident on July 23, 2011 involving Swift Car No.HR-08M/3339.

2. While assailing impugned award dated January 2, 2013 passed by the Motor Accident Claims Tribunal, Patiala (for short, 'Tribunal'), learned counsel for the appellants has contended that compensation awarded by the learned Tribunal is insufficient and inadequate. Income of deceased has been wrongly assessed to the tune of ₹ 4,000/- per month. Swaran Singh was working as foreman on combine and earning ₹ 12,000/- per month. Besides, he was also dealing with sale & purchase of tractors with one Kashmir Singh and from this business, he was earning ₹ 10,000/- per month. All these facts have been ignored by the learned Tribunal. Thus, dependency assessed by the learned Tribunal deserves to be calculated by treating his income to the tune of ₹ 22,000/- per month.

3. Learned counsel for the respondents have supported the award passed by the Tribunal by submitting that since just and adequate compensation has already been awarded by the Tribunal while keeping in view the facts and circumstances of the case, evidence available on file and latest proposition of law, no interference of this Court is justified and instant appeal deserves to be dismissed with costs.

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

5. The Tribunal assessed the income of Swaran Singh, since deceased, @ ₹ 4,000/- per month. After deducting 50% from his income dependency has been assessed to the tune of ₹ 2,000/- per month and total compensation to the tune of ₹ 1,35,000/- including ₹ 10,000/- on account of loss of love & affection and ₹ 5,000/- on account of funeral expenses has been awarded by the Tribunal.

6. As far as income is concerned, claimant No.2 – appellant Jit Singh entered into witness box as CW-1, who deposed that Swaran Singh was 22 years of age at the time of accident and was working as Foreman on Combine. He was also dealing in sale & purchase of old tractors. Thus, his monthly income was ₹ 22,000/- per month. But, there is no documentary evidence brought on record to support his version. There is only a bald statement of Jit Singh, father of deceased, in this regard. Thus, learned Tribunal has rightly assessed the monthly income of deceased to the tune of ₹ 4,000/- per month. No compensation has been awarded by the learned Tribunal on account of loss of future prospects. As per the latest proposition of law, claimants are entitled to future prospects to the extent of 50%. Thus, income of the deceased is assessed to ₹ 6,000/- per

month i.e. ₹ 4,000/- (assessed by the Tribunal) + ₹ 2,000/- (being 50%). After having deducted 1/2 of his income in consideration of expenses which the victim would have incurred towards maintaining himself had he been alive, dependency is worked out to ₹ 3,000/- per month.

7. As per the guidelines highlighted by the Hon'ble Apex Court in Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77, since the deceased was 22 years of age i.e. in the age group of 15-25 years, multiplier of 18 is to be applied. Therefore, claimants are entitled to compensation to the tune of ₹ 6,48,000/- (3000 X 12 X 18). Besides this, claimants are also entitled to ₹ 1,00,000/- on account of loss of love & affection instead of ₹ 10,000/- and ₹ 25,000/- on account of funeral expenses instead of ₹ 5,000/- as awarded by the learned Tribunal. Thus, the claimants are entitled to a sum of ₹ 7,73,000/- against a sum of ₹ 1,35,000/- awarded by the learned Tribunal. Enhanced amount shall be payable by the Insurance Company, which shall be shared equally by the appellants – claimants. Insurance Company is further directed to make the payment of enhanced amount within 45 days of the receipt of certified copy of this judgment and its failure shall entail interest @ 7% per annum from the date of institution of claim petition.

8. In the light of what has been discussed above, appeal is partly allowed in terms of the observations made in the foregoing paragraph.

9. No order as to costs.

February 23, 2015
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(Jaspal Singh)
Judge