

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3335 of 2013 (O&M)
Date of Decision: July 09, 2015

Manjeeta Kumari and others

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sumit Sangwan, Advocate
for the appellants.

Mr.Surinder Singh and Mr.Sidharth Sanwaria,
Asstt. Advocates General, Haryana
for respondents No.1 and 3.

Respondent No.2-ex parte.

Mr.R.C.Gupta, Advocate
for respondent No.4.

INDERJIT SINGH, J.

Appellants-claimants Manjeeta Kumari, Nikunj, Manphool Singh and Sumitra have filed this appeal against State of Haryana, Sansar Singh, driver, General Manager, Haryana Roadways, owner and The New India Insurance Company Limited, Insurer of bus bearing registration No.HR-61-2643 respondents, challenging the impugned Award dated 04.05.2013 passed by learned Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'Tribunal'), for enhancement of the compensation, which was awarded by the Tribunal.

The brief facts of the case are that claimants-appellants

filed claim petition against respondents under Section 166 of the Motor Vehicles Act, 1988, on account of death of Arvind @ Vicky in a motor vehicular accident. It is mainly stated in the claim petition that on 08.05.2012 at about 8.30 A.M., Arvind @ Vicky was going towards Loharu chowk on motorcycle bearing registration No.HR-19A-8191, which was hit by Haryana Roadways bus bearing registration No.HR-61-2643 (offending bus) being driven by its driver Sansar Singh rashly and negligently, due to which Arvind @ Vicky was run over by the bus and died at the spot. FIR was got registered. At the time of accident, the deceased was 29 years old. He was working as Computer Operator/Trainer on contract basis in Government Girls College, Bhiwani. It is further alleged that deceased also used to do dairy farming, agricultural and tuition work and was earning ₹30000/- per month. Claimants claimed compensation of ₹30 lacs.

Upon notice, respondent-driver filed written statement taking plea that no accident has taken place with the vehicle in question. Respondents-owners also filed joint written statement and took the similar plea as taken by respondent-driver. Respondent-Insurance Company filed written statement taking the plea that claimants have filed the claim petition in collusion with respondents driver and owners.

After framing of the issues, both the parties led evidence. Learned Tribunal after going through the evidence, awarded compensation of ₹8,36,000/- along with interest @ 6% per annum from the date of institution of claim petition till its realization vide

Award dated 04.05.2013.

Aggrieved from the above-said Award, present appeal has been filed by the claimants for enhancement of compensation.

Notice of motion was issued and learned counsel for respondents No.1, 3 and 4 appeared and contested the appeal. Respondent No.2 was proceeded against ex parte.

At the time of arguments, learned counsel for the appellants-claimants firstly argued that future prospects were not granted. No amount on ground of love and affection and loss of consortium has been given. He further argued that no compensation has been given on the ground of loss of estate.

After hearing learned counsel for the parties and after going through the record, I find that the Tribunal has taken the income of the deceased as skilled person @ ₹6,000/- per month and after making deduction of 1/3rd, multiplier of 17 was applied and ₹20,000/- has been granted as loss of consortium, loss of estate and funeral expenses. The total compensation of ₹8,36,000/- has been awarded.

As per the law laid down by the Hon'ble Supreme Court in ***Rajesh and others vs. Rajbir Singh and others, 2013(3) RCR (Civil) 170***, the claimants-appellants are entitled to ₹25,000/- as funeral expenses, ₹1 lac for loss of consortium and further 50% should be added as future prospects. The Three Judges' Bench of Hon'ble Supreme Court in the latest judgment in Civil Appeal No.4497 of 2015 (arising out of SLP(C) No.8362 of 2013 decided on 15.05.2015, granted 50% addition to the actual income of the

deceased, while computing future prospects, who was below than 40 years of age. Therefore, the claimants-appellants are entitled to 50% future prospects, compensation on the ground of loss of love and affection, loss of consortium, loss of estate and funeral expenses. The minor claimant is also entitled to compensation of ₹1 lac on ground of love and affection.

Therefore, in view of the above discussion, total compensation is granted as under:-

Income	₹6,000/- per month
50% future prospects	₹6,000/- + ₹3,000/- = ₹9,000/-
Dependency by deducting 1/3 rd	₹9,000/- - ₹3,000/- = ₹6,000/-
Annual dependency	₹6,000/-x12 = ₹72,000/-
Multiplier of 17	₹72,000/- x 17 = ₹12,24,000/-
Funeral expenses	₹25,000/-
Loss of consortium	₹1,00,000/-
Loss of love and affection	₹1,00,000/-
Loss of estate	₹10,000/-
Total compensation	₹14,59,000/-

In view of above, the appellants-claimants are entitled to total compensation of ₹14,59,000/- along with the same interest on the enhanced amount as awarded by the Tribunal from the date of petition till payment. The enhanced amount be disbursed to the claimants proportionately as per Award passed by the Tribunal.

Therefore, finding merit in the present appeal, the same is allowed accordingly.

July 09, 2015
Vgulati

(INDERJIT SINGH)
JUDGE