

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.351 of 2013 (O&M)
Date of Decision: July 16, 2015

Bimla Devi and others

...Appellants

Versus

Satbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Naren Pratap Singh, Advocate
for the appellants.

None for respondents No.1 and 2.

Ms.Vandana Malhotra, Advocate
for respondent No.3-Insurance Company

INDERJIT SINGH, J.

Bimla Devi, Devender, Ravinder and Virender have filed this appeal against claimants-respondents Satbir, owner, Jai Parkash, driver and the New India Assurance Company Ltd. of Insurer of three-wheeler bearing registration No.HR-61-4549 (offending vehicle), challenging the impugned Award dated 06.10.2012 passed by learned Motor Accident Claims Tribunal, Bhiwani, (hereinafter referred to as 'Tribunal'), for enhancement of the compensation amount.

The brief facts of the case are that claimants-appellants filed a claim petition against above-said respondents under Section 166 of the Motor Vehicles Act, regarding the death of Om Pal, who

was going along with other persons from Bhiwani to village Bapora in the offending vehicle, being driven by respondent-driver in a rash and negligent manner and at a high speed, due to which he lost his control over the three-wheeler and it turned turtle. Due to the impact of the accident, Om Pal and other occupants sustained injuries and they were shifted to General Hospital, Bhiwani, from where, Om Pal was referred to PGIMS, Rohtak. FIR was also got registered. Om Pal succumbed to the injuries later on. At the time of accident, he was 50 years of age.

Upon notice, respondent-driver and owner took the plea that they have been falsely involved in collusion with the police. Respondent-Insurance Company stated that no accident has taken place and the deceased might have sustained injuries in a hit and run accident.

After framing the issues, on the basis of the evidence, learned Tribunal awarded the compensation by assessing the income of the deceased by giving 30% future prospects @ ₹4200/- per month as per last drawn salary and after making deduction of 1/3rd, the dependency assessed @ ₹33,600/- per annum and keeping in view the age of the deceased, multiplier of 13 has been applied and the compensation of ₹4,36,800/- was granted. ₹20,000/- was granted for funeral expenses, loss of consortium and loss of estate and total compensation of ₹4,56,000/- along with interest @ 6% per annum from the institution of the claim petition till realization was awarded.

Aggrieved from the above-said Award, present appeal has

been filed for enhancement of the compensation amount.

Notice of motion was issued and learned counsel for respondent No.3-Insurance Company appeared and contested the appeal. None appeared on behalf of respondent No.1 despite service and respondent No.2 refused to accept the notice.

At the time of arguments, learned counsel for the appellants argued that ₹1 lac should have been granted as loss of consortium and ₹25,000/- as funeral expenditure 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***. He further argued that on the ground of love and affection, no compensation has been awarded and also regarding loss of estate, compensation should have been awarded.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that dependency has been correctly assessed by the Tribunal. The claimant-wife is entitled to ₹1 lac as loss of consortium and claimants are entitled to ₹25,000/- on ground of funeral expenses. The claimants are further entitled to ₹20,000/- as loss of estate and further on the ground of love and affection, minor is entitled to compensation of ₹1 lac.

In view of the above, the claimants-appellants are held entitled for enhancement of the compensation and the compensation amount so awarded by the Tribunal is enhanced by ₹2,25,000/- along with the same interest, on the enhanced amount, as awarded by the

Tribunal from the date of filing of the claim petition till realization. The enhanced amount be disbursed to the claimants proportionately as per Award of the Tribunal.

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

July 16, 2015
Vgulati

(INDERJIT SINGH)
JUDGE