

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.4032 of 2013

Date of decision: 23rd January, 2015

Kamla and others

... Appellants

Versus

Sudesh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Gurinder Pal Singh, Advocate
for the appellants.

Mr. Gaurav Gupta, Advocate for
Mr. Ashish Yadav, Advocate
for respondents No.1 and 2.

Mr. Rajneesh Malhotra, Advocate for
Mr. Gaurav Jindal, Advocate
for respondent No.3.

FATEH DEEP SINGH, J.

The present appeal assails an Award dated 20.03.2013 of learned Motor Accident Claims Tribunal, Gurgaon whereby a sum of ₹2,25,800 has been awarded along with interest as compensation for the untimely death of Arvind Hooda a young man aged around 24 years in a motor vehicular accident.

The factual matrix that the deceased on 30.08.2012 was riding on a motorcycle bearing registration No.HR26-AS-5312 and

while going to Civil Health Centre, Pataudi (Gurgaon) from Primary Health Centre, Mandpura, Tehsil Patodhi (Gurgaon) his vehicle was hit by another motorcycle No.HR-76-7870 being driven in a rash and negligent manner by respondent Sudesh as a consequence of which the deceased died.

Findings of the learned Tribunal qua issue No.1 that it was due to the rash and negligent driving of the offending motorcycle has led to this accident, have not been challenged by the respondents and thus, having been returned in favour of the claimants have attained finality.

After hearing Mr. Gurinder Pal Singh, Advocate for the appellants; Mr. Gaurav Gupta, Advocate appearing on behalf of Mr.Ashish Yadav, Advocate for respondents No.1 and 2 and Mr.Rajneesh Malhotra, Advocate representing Mr. Gaurav Jindal, Advocate for respondent No.3 and on perusal of the records.

The lone contentious issue that is sought to be assailed by the appellants is quantum of compensation and denial of the same to the unmarried minor sisters. It is well brought on the record by post-mortem report Ex.P1 that the deceased was aged around 24 years which is corroborated by the deposition of his father PW5 Balraj Singh by way of affidavit Ex.PW5/A. The stand of the claimants that the deceased was working as Information Assistant at Primary Health Centre, Mandpura and was drawing ₹7,700 per month as brought on record irrefutably by Subhash Chand Yadav PW3, Clerk of the office of Civil Surgeon, Gurgaon which is testified on the basis of official

record consisting of joining letter Ex.P3, appointment letter Ex.P4 and Ex.P5, though it is sought to be assailed with much elance on behalf of the respondents that the relieving letter Ex.R1 shows that it was not a permanent appointment and was a contractual/periodical appointment, does not cuts much ice when it is irrefutably established that the deceased was holding a Diploma in Computer Hardware and Software and at the time of his death was still under employment though contractual one, and it would be preposterous to hold as is sought to be argued on behalf of the appellant side that drawing salary of ₹7,700 per month from a Government Department cannot sustain forever. More so, the deceased was a bachelor and in view of '**New India Assurance Company Ltd. v. Gopali and others**' reported in **2012 (3) RCR (Civil) 818**, 1/2 needs to be deducted on his own upkeep and maintenance, and therefore, the contribution of the deceased towards the family consisting of aged parents and young unmarried sisters one of whom is still a minor and the other has just entered the threshold of majority, such a contribution cannot be put to dispute in view of the escalating trend of prices and therefore, the annual dependency comes to ₹46,200. In view of the age of the deceased and as has been relied upon by the learned Tribunal which has applied multiplier of 13 appears to be highly inadequate and inequitable and rather the Tribunal has further erred in splitting multiplier according to the relative ages and has denied claim of the sisters which certainly is illegitimate and illogical. The Act is a welfare Statute for the betterment of claimants and thus, is to be given wider

consideration and loose construction. In view of the age of the deceased in the light of ratio laid down in '**Sarla Verma & others v. Delhi Transport Corporation & another**' reported in **2009(6) SCC 121** multiplier of 18 needs to be applied and therefore, total loss of dependency comes to ₹8,31,600. The family has lost their bread earner, parents their son a source of love and affection as well as protection and so the young sisters and though no amount of compensation can assuage the wrong done to them however, as an effort at mitigating the circumstances by some amount of guesswork and hypothetical calculations an amount of ₹1.50 lacs is awarded under the conventional heads including loss of love and affection, funeral expenses etc. Therefore, the total compensation comes to ₹9,81,600 (rupees nine lacs eighty one thousand six hundred only).

As has been submitted by the appellant side, since one of the sisters Kumari Neetu at the time of filing of the claim petition was minor aged around 17 years and the other namely Kumari Shilpi was 19 years old and it cannot be accepted as has been sought to be projected by the respondent side and has been held so by the learned Tribunal denying them compensation would be doing injustice. The term 'Legal Representative' as defined under Section 2 of the Hindu Succession Act, sways within its ambit anyone who is entitled to intermeddle into the estate of the deceased and therefore, findings of the learned Tribunal denying compensation to the sisters of the deceased needs to be set aside. Thus, all the four claimants shall be entitled to compensation in equal shares.

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed.

No other point has been argued.

With these modifications in the impugned Award the appeal stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

January 23, 2015

rps