

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

FAO No.4135 of 2013 (O&M)

Date of Decision: 20.01.2015

Manju and others

....Appellants

Versus

Parshant Dagar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present: Mr. Amit Jain, Advocate
 for the appellants.

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

MAHAVIR S. CHAUHAN, J. (ORAL)

Hari @ Harish, a 28 years old youth statedly an agriculturist and also running a dairy farm, died in a motor vehicle accident caused on account of rash and negligent driving of a car bearing registration No.HR34C-6354 (for short 'offending vehicle') by Prashant Dagar-respondent No.1 herein, at about 1.30 pm on 11.04.2010. His legal representatives, numbering five, brought claim application No. 72 of 2010 before learned Motor Accident Claims Tribunal, Gurgaon (for short 'the Tribunal') to seek compensation alleging loss of dependency. The application was contested by the respondents. From the pleadings of the parties, following issues were framed by the learned Tribunal:-

1. *“Whether the accident has been caused on 11.04.2010 at about 1.30 PM due to rash and negligent driving of respondent No.1 while driving offending vehicle bearing No. HR-34C-6354 and caused death of Hari @ Harish, as alleged?OPP.*
2. *If issue No.1 is proved, then what amount of compensation the petitioners are entitled to and from whom?OPP.*

3. *Whether the respondent No.1 was holding a valid and effective driving licence at the time of accident?OPR.*
4. *Whether the respondent has violated the terms and conditions of the Insurance Policy?OPR.*
5. *Whether the insurer is liable to indemnify the insured?OPR.*
6. *Whether the petition is not maintainable in the present form?OPR.*
7. *Whether the petitioners have no locus standi to file the present petition?OPR.*
8. *Whether the petitioners have no cause of action to file the present petition?OPR.*
9. *Whether the petition is bad for mis-joinder and non-joinder of necessary parties?OPR.*
10. *Relief."*

After evidence of both the sides was complete, learned Tribunal appraised it in the light of submissions made at the bar, returned findings on issue No.1 regarding factum and manner of occurrence in favour of the applicants and while assessing income of the deceased at Rs.4200/- per month applied multiplier of 16 and awarded compensation amounting to Rs.6,24,800/- in favour of the applicants, vide award dated 21.07.2012.

The applicants by way of present appeal seek modification of the award dated 21.07.2012 and enhancement of compensation so as to satisfy the requirement of just compensation.

Respondent No.3, insurer of the offending vehicle, is contesting the appeal.

I have heard learned counsel for the appearing parties.

There is no dispute with regard to the factum and manner of the occurrence, as also income of the deceased as assessed by the learned Tribunal and deduction of 1/4th from the assessed income as expenditure of the deceased upon himself. Learned counsel for the applicants/appellants submits that compensation awarded for last rites and loss of consortium is on the lower side and no compensation has been allowed for loss of love &

affection and loss of estate nor future prospects have been taken into consideration.

After hearing learned counsel for the parties, it is found that the selection of multiplier of 16 is contrary to the judgment of the Hon'ble Supreme Court rendered in the case of *Sarla Verma & others versus Delhi Transport Corporation & another, AIR 2009 SC 3104*, wherein a deceased in the age group of 20 to 30, a multiplier of 17 has to be applied. To the assessed loss of dependency i.e. Rs.3150/- per month or Rs.37,800/- per annum, if a multiplier of 17 is applied, compensation on account of loss of dependency comes to Rs.6,42,600/-. An amount of Rs.1,92,780/- has to be added as equivalent to 30% of the assessed loss of dependency, towards future prospects of the deceased had he survived of the occurrence. Further the appellants are entitled to an amount of Rs.25,000/- as expenditure on last rites of the deceased, appellant Manju is entitled to Rs.1,00,00/- on account of loss of consortium while appellants Mohit and Payal are entitled to a sum of Rs. 1,00,000/- on account of loss of love and affection. Further, appellants are also entitled to a sum of Rs.10,000/- on account of loss of estate. So calculated compensation payable to the appellants comes to Rs.10,70,380/-. This, however, shall be inclusive of the compensation awarded by the learned Tribunal.

The award is modified to the above stated extent. Other terms of the award shall remain unchanged.

The appeal is disposed of in the above stated terms.

No costs.

[MAHAVIR S. CHAUHAN]
JUDGE

20.01.2015
Pooja Saini