

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

**FAO No.4414 of 2013 (O&M)
Date of Decision: July 13, 2015**

Jagdish Parshad and others

.... Appellants

vs.

Ramesh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. J.P. Sharma, Advocate for the appellants.

Mr. D.R. Bansal, Advocate for respondent No.3.

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh J.(Oral)

This is an appeal filed by the claimants against the Award dated 19.01.2013 passed by the Motor Accident Claims Tribunal, Narnaul, whereby the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short 'the M.V. Act'), a compensation to the tune of ₹50,000/- only was granted to the claimants on account of no fault liability. The compensation was ordered to be equally shared by the claimants.

Brief facts of the case are that on 20.11.2011, Shakti, 22 years old son of Jagdish Parshad-appellant No.1 while present at Bus Stand Kherki was hit by a Max vehicle bearing registration No.HR-37B-7561 being driven by respondent No.1-Ramesh rashly and negligently. As a result of the accident, Shakti was declared brought dead when he was shifted to Govt. Hospital, Mohindergarh.

In this regard, FIR No.497, dated 20.11.2011 was registered under Section 279 and 304A IPC at Police Station Mohindergarh.

The Tribunal noticed that the deceased was 22 years of age. He was a labourer. At the same time, the Tribunal held that the accident took place due to rash and negligent driving of Max vehicle by its driver Ramesh. On the quantum of compensation, the Tribunal noticed that Jagdish Parshad, father of the deceased is earning ₹10,000/- to ₹15,000/- per month as admitted by him. Appellant No.3- Rajesh, sister of the deceased is married, appellant No.2-Ravinder Kumar was elder brother of the deceased. Therefore, it was held that they were not dependent upon the income of the deceased. Consequently, in view of the reliance placed upon the authority of **“Smt. Manjuri Bera vs Oriental Insurance Co. Ltd. and another 2007 ACJ 1279**, compensation only to the tune of ₹50,000/- was granted to the claimants.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the appellants-claimants has argued that the entire family was dependent upon the deceased. Therefore, the compensation should have been calculated after considering the income of the deceased.

On the other hand, learned counsel for the Insurance Company has relied upon the authority of **“Smt. Manjuri Bera vs Oriental Insurance Company Limited and another 2007(2) ACJ 362 (S.C.)**

Admittedly, in the present case, the father of the deceased had admitted that he is earning ₹10,000/- to ₹15,000/- per month. Whether it means that merely from the income of the father of the deceased, it is to be concluded that the deceased was not contributing any thing to the family for running its affairs, I am of the view that the income of the father of the deceased was not so high that he would not require any support from his son.

Therefore, it has to be assumed that the deceased must be contributing towards the expenses of his family. Under Section 166 of the M.V. Act, all of the legal heirs can maintain the application for compensation. In Manjuri Bera's case (supra), the married sister was allowed compensation to the tune of ₹50,000/- under Section 140 of the M.V. Act.

In the present case, the deceased was the member of a family consisting of his father, unmarried elder brother and married sister. His mother was already dead and therefore, it is not only the father, who was running the family but the deceased was also contributing to the family. The deceased was also to support his father Jagdish Parshad in his old age and would have also provided assistance in case of any need.

It being so, it has to be held that the deceased was contributing towards his family for which the the father is to be compensated. Since the deceased was a labourer, his minimum wages in the year 2011 in the State of Haryana, are to be taken @ ₹4,016/- per month. In view of the reasons mentioned in the

judgment dated 15.05.2015 of Hon'ble Apex Court in case of ***“Munna Lal Jain and another vs Vipin Kumar Sharma and others”*** passed in Civil Appeal No.4497 of 2015, even in case of a self employed person, future prospects are to be added. Since deceased in the present case was only 22 years of age, therefore, 50% of his income i.e. ₹2,008/- is to be added on account of future prospects. Thus, the income of the deceased comes to ₹6,024/- per month. Since the deceased was unmarried, therefore, 50% is deducted as personal expenses. In this way, the contribution of the deceased towards his family comes to ₹3,012/- per month. The multiplier of 18 is applied as per the age of deceased. Thus, the total contribution of the deceased towards his family comes to ₹6,50,592/- (₹3,012x12x18). ₹1,00,000/- on account of loss of love and affection to appellant No.1-Jagdish Parshad (father of the deceased) are also allowed. ₹25,000/- on account of funeral expenses are also allowed. The total amount of compensation is recalculated @ ₹7,75,592/-.

Since the deceased was earning, he must be giving some gifts of natural love and affection to his elder brother and married sister. Therefore, out of the total compensation a fixed sum of ₹25,000/- each is allowed to the elder brother Ravinder Kumar (claimant No.2) and married sister Rajesh (claimant No.3). The remaining amount of compensation shall go to Jagdish Parshad (claimant No.1), father of the deceased. The enhanced amount of compensation shall be paid with interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

Since the vehicle was insured, therefore, the Insurance Company shall be liable to pay the compensation.

The present appeal is allowed accordingly to the abovesaid extent.

July 13, 2015
sarita

(KULDIP SINGH)
JUDGE