

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3899 of 2014 (O&M)
Date of Decision: July 15, 2015

Smt.Gomati and others

...Appellants

Versus

Amit Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashwani Arora, Advocate
 for the appellant.

Respondents No.1 and 2-ex parte.

INDERJIT SINGH, J.

Appellants-claimants Smt.Gomati, Sh.Prem Chand and Sh.Sarwan Kumar have filed this appeal against respondents Amit Kumar driver and owner and Bharti Axa General Insurance Company Ltd., Insurer of car bearing registration No.CH-01AC-1133 (offending vehicle), challenging the impugned Award dated 18.01.2014 passed by learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'Tribunal'), for enhancement of the compensation, which was awarded by the Tribunal, on account of death of Jamuna Dass @ Jamna Dass.

The brief facts of the case are that claimants-appellants Smt.Gomati and others filed claim petition against respondents Amit Kumar, owner and Bharti Axa General Insurance Company, Insurer of

offending vehicle, under Section 166 of the Motor Vehicles Act, 1988, on account of death of Jamuna Dass @ Jamna Dass, who was aged about 60 years and a rehri puller, died in a motor vehicular accident on 30.08.2012 with the car bearing registration No.CH-01AC-1133 being driven by respondent-Amit Kumar rashly and negligently.

Upon notice, respondent-driver took the plea that no accident had taken place with the offending vehicle being driven by him. Respondent-Insurance Company filed written statement stating that driver was not holding a valid and effective driving licence at the time of alleged accident.

The Tribunal after framing the issues and after the parties led evidence, awarded compensation of ₹3,65,000/- along with interest @ 7.5% per annum from the date of petition till realization, in favour of the claimants and against the respondents.

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

Notice of motion was issued but none appeared on behalf of the respondents and they were proceeded against ex parte.

At the time of arguments, learned counsel for the appellants-claimants argued that the Tribunal has wrongly applied the multiplier of 5. The deceased was stated to be of 60 years. He further argued that 15% future prospects as held by the Hon'ble Supreme Court in ***Rajesh and others vs. Rajbir Singh and others, 2013(3) RCR (Civil) 170***, has also not been awarded.

I have heard learned counsel for the appellants-claimants

and have gone through the record.

From the record, I find that the Tribunal has assessed the income of the deceased as ₹6000/- per month. After adding 15% future prospects as held above in ***Rajesh's case (supra)***, the income comes to ₹6900/- per month. After making deduction 1/3rd, the dependency comes to ₹4600/- per month. Further, I find that the Tribunal has wrongly applied the multiplier of 5. As per ***Smt.Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77***, multiplier of 9 is to be applied. Therefore, the compensation comes to ₹4600x12x9=₹4,96,800/-. Further, the claimants are entitled to ₹25,000/- as funeral expenses and ₹1 lac as loss of consortium.

In view of above, the appellants-claimants are entitled to total compensation of ₹6,21,800/- along with the same interest on the enhanced amount as awarded by the Tribunal from the date of filing of the petition till realization. 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 15, 2015
Vgulati

(INDERJIT SINGH)
JUDGE