

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.4969 of 2013 (O & M)

Date of Decision: *December 17, 2015*

Satya Devi & others

..... APPELLANTS

VERSUS

Suraj Mohammad & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

1. Whether Reporters of local papers 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?

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PRESENT: - Mr. Mayank Mathur, Advocate, for the appellants.

Mr. Nand Lal Sammi, Advocate, with Mr. Hitesh Kumar Sammi, Advocate, for respondent Nos.1 and 2.

Mr. D.R. Bansal, Advocate, for respondent No.3 – Insurance Company.

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Jaspal Singh, J

CM No.21015-CII of 2013

For reasons mentioned in the application, delay of 205 days in re-filing the appeal is condoned.

Application stands allowed.

FAO No.4969 of 2013

1. The instant appeal has been preferred by claimants – appellants, Satya Devi & others (wife, mother and children of deceased Jarnail Singh @ Jaila), seeking enhancement of compensation of awarded to them by the Motor Accident Claims Tribunal, Patiala (for short, ‘Tribunal’) vide Award dated October 23, 2012, whereby they have been awarded compensation to the tune of ₹ 6,14,000/-.

2. The brief facts of the case are that on May 23, 2010, Jarnail Singh @ Jaila son of Surjan Singh, aged about 50 years, self employed as driver on Auto Rickshaw, was going from Rajpura to Patiala side in his Auto Rickshaw bearing registration No.PB-11AP-3063. At about 7.15 AM, when he reached in front of petrol pump of village Chamarheri, a bus bearing registration No.PB-08BN-6188 being driven by respondent No.1, Suraj Mohammad, coming from backside at a very high speed and in a rash & negligent manner, hit his Auto Rickshaw. As a result of the impact, Auto Rickshaw over-turned and Jarnail Singh @ Jaila received grievous injuries on face, head and other vital parts of his body. The accident was witnessed by Naib Singh. Jarnail Singh @ Jaila was taken to Rajindra Hospital, Patiala, with the help of Naib Singh, whereafter he was referred to PGI, Chandigarh, where he succumbed to injuries. An FIR was also registered with regard to the accident.

3. The appellants preferred a claim petition before the Tribunal seeking compensation. The petition was contested by the respondents. From the pleadings of parties, issues were framed. In order to prove their respective cases, parties led evidence.

4. After hearing learned counsel for the parties and on appraisal of evidence, the claimants – appellants were awarded a sum of ₹ 5,94,000/- on account of loss of dependency; ₹ 5,000/- towards funeral expenses; ₹ 5,000/- towards loss of estate; and ₹ 10,000/- as loss of consortium, totaling ₹ 6,14,000/-, vide Award dated October 23, 2012 passed by the Tribunal. The respondents were held liable to pay compensation, jointly and severally.

5. Dis-satisfied by the aforesaid award, the claimants have approached this court seeking enhancement of compensation.

6. While assailing the impugned award, learned counsel for the appellants has contended that compensation awarded by the Tribunal is on lower side. Funeral expenses have been granted to the tune of ₹ 5,000/- only. Only ₹ 10,000/- have been granted towards loss of consortium. Jarnail Singh @ Jaila was aged about 50 years at the time of death. Income of deceased has been assessed to the tune of ₹ 6,000/- per month whereas he was having income from ₹ 12,000/- to ₹ 15,000/- per month.

7. Learned counsel for the respondents have contended that the award passed by the Tribunal is absolutely in consonance with the evidence available on record and settled canons of law. Just and adequate compensation has been granted by the Tribunal. Appeal is liable to be dismissed.

8. This Court has given an anxious thought to the rival submissions made by learned counsel for the parties and gone through the record available.

9. As far as the contention of learned counsel for the appellants with regard to income of Jarnail Singh @ Jaila is concerned, the Tribunal has rightly assessed the income of deceased to be ₹ 6,000/- per month in the absence of any documentary proof. Similarly, the age of Jarnail Singh @ Jaila has been taken to be around 52 years, on the basis of evidence on record as well as post mortem report Ex.P1.

10. So far as contention of learned counsel for the appellants regarding inadequacy of compensation is concerned, this Court finds that compensation awarded by the Tribunal is on lower side. On some of the counts like loss of consortium and funeral expenses only a meagre amount of ₹ 10,000/- and ₹ 5,000/-, respectively, has been awarded.

11. The learned Tribunal has rightly assessed the income of Jarnail Singh @ Jaila to the tune of ₹ 6,000/- per month and applied deduction to the extent of 1/4th as he was survived by his wife, three sons and aged mother. The Tribunal has rightly applied a multiplier of 11 keeping in view the guidelines laid down by the Hon'ble Apex Court in case Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77. The claimants are entitled to enhancement in compensation on account of funeral expenses, which is enhanced by ₹ 20,000/- (total funeral expenses - ₹ 25,000/-). Widow of Jarnail Singh @ Jaila is entitled to enhancement in grant of loss of consortium to the tune of ₹ 90,000/- (total loss of consortium - ₹ 1,00,000/-).

12. Apart from it, in view of pronouncement of Hon'ble Apex Court in Rajesh & others vs. Rajbir Singh & others, 2013(3) RCR (Civil) 170, the claimants – appellants are entitled to future prospects to the extent

of 15%. Thus, the compensation so awarded cannot be said to be just and adequate which deserves to be enhanced.

14. Accordingly, the claimants shall be entitled to the enhanced compensation as under:-

1.	Income assessed	₹ 6,000/- pm
2.	Future Prospects (15% of the income assessed)	₹ 900/- pm
3.	Total Income (₹ 6,000/- + ₹ 900/-)	₹ 6,900/- pm
4.	Deduction to the extent of ¼ towards personal expenses	₹ 1,725 pm
5.	Annual Dependency (₹ 5175/- x 12)	₹ 62,100/-
6.	Multiplier of 11 (₹ 5175/- x 12 x 11)	₹ 6,83,100/-
7.	Funeral Expenses	₹ 25,000/-
8.	Loss of consortium	₹ 1,00,000/-
9.	Total enhanced compensation by this Court (6 + 7 + 8)	₹ 8,08,000/-

15. In the light of what has been discussed above, the appeal is partly allowed. The claimants are entitled to enhanced compensation to the tune of ₹ 1,94,000/- (i.e. ₹ 8,08,000 - ₹ 6,14,000/-). Since, the driver has been holding a valid and effective driving license at the time of accident and the offending vehicle was duly insured with Insurance Company, the payment of enhanced compensation shall be made by respondent No.3 – Insurance Company to the claimants within a period of 45 days from the date of receipt of certified copy of this order, failing which, interest @ 9% shall be levied on the amount of compensation from the date of institution of claim petition till actual realization. The enhanced amount shall be apportioned by appellants as per the award passed by the learned Tribunal.

16. No order as to costs.

December 17, 2015

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(Jaspal Singh)
Judge