

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.5481 of 2013(O&M)
Date of Decision: 25.03.2015

Sunita Devi and others

..... APPELLANTS

VERSUS

Mohan Lal and others

..... RESPONDENTS

PRESENT: - Mr. Pritam Saini, Advocate
for the appellants.

Mr. Eklavya Darshi, Advocate
for respondent No.3.

CORAM: **HON'BLE MR. JUSTICE SHEKHER DHAWAN**

- 1) Whether Reporters of the 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?

SHEKHER DHAWAN, J.

The claimants have challenged the award of Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'The Tribunal') dated 24.07.2013 whereby 'The Tribunal' awarded a sum of ₹14,65,100/- as compensation on account of death of Vivek Kumar.

Brief facts of the case that on 17.01.2012 Yogesh

and Vivek Kumar (since deceased) were going on Santro Car bearing registration No.HR-36R-2343, which was being driven by Yogesh at a moderate speed and because of rash and negligent driving of driver of truck No.RJ-14G-5722 resulted into accident. Vivek was taken to CHC Pataudi for treatment. Later on, he succumbed to the injuries.

'The Tribunal' while returning the findings that the accident had taken place because of rash and negligent driving of respondent No.1 held the respondents to be liable to pay compensation of ₹14,65,100/-.

The appellants are dis-satisfied with the awarded amount mainly on the ground that 'The Tribunal' has not awarded any amount on account of compensation under the head of consortium although one of the claimants is widow of Vivek. Adequate compensation has also not been awarded on account of funeral expenses and transportation charges.

Mr.Pritam Saini, learned counsel for the appellants took the plea that as per latest law laid down by Hon'ble the Supreme Court in case of **Rajesh and others Vs. Rajbir and others**, 2013(9) SCC 54, minimum compensation of ₹01 lac under the head of consortium is to be awarded, if one of the claimants is widow as in this case and minimum funeral expenses are to be awarded to the tune of

₹25,000/-, which has not been done by 'The Tribunal'. So, the awarded amount be enhanced accordingly.

Learned counsel for the appellants also took the plea that Vivek (since deceased) was of the age of 20 years. His income has been proved to be ₹10,000/- per month as he was getting monthly salary from M/s Krishna Metals Finishers as per statement of PW-4 Mohd Ali and documentary evidence by way of salary statements Exhibits PB and PC on the file. With the passage of time, the earnings of the appellants were to grow but the appellants have not been duly compensated keeping in view the prospectus of future earnings. In the present case, the increase of 50% was required to be given in case of future earnings but that has not been done. So, the awarded amount be enhanced suitably.

Mr.Eklavya Darshi, Advocate for respondent No.3 i.e. The New India Assurance Company Ltd. took the plea that 'The Tribunal' has already awarded a sum of ₹10,000/- in lieu of consortium and a sum of ₹5,000/- has been awarded on account of transportation of dead body and ₹10,000/- as funeral expenses. The appellants are not entitled to future earnings because as per statement of PW-4, Vivek worked for a period of one month only with M/s Krishna Metals Finishers as is evident from statement of

PW-4 Mohd. Ali and salary statements Ex.PB and PC. There is no question of any compensation under the head of future prospectus in the present case and the present appeal deserves dismissal.

Having given considerable thought to the arguments advanced by learned counsel for both the parties, this Court is of the considered view that monthly income of the deceased has been rightly taken as proved as per statement of PW-4 Mohd. Ali coupled with salary statements Exhibits PB and PC. Even the multiplier has been correctly applied while awarding the amount of compensation. However, as per law laid down by Hon'ble the Supreme Court in **Rajesh and others Vs. Rajbir and others**, 2013(9) SCC 54, the claimants are certainly entitled to a sum of ₹1 lac on account of loss of consortium, if one of the claimants is widow as in this case but 'The Tribunal' has awarded a sum of ₹10,000/- only. So, the appellants are certainly entitled to enhancement of ₹90,000/- under the head of loss of consortium. The appellants have been awarded a sum of ₹15,000/- on account of transportation of dead body and funeral expenses whereas the appellants are entitled to a sum of ₹25,000/- on account of transportation of dead body and funeral expenses and, as such, the amount of compensation

enhanced by ₹10,000/- under the head of “transportation of dead body and funeral expenses”.

As per law laid down by Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**, (2009) 6SCC 121 and in **Rajesh and others Vs. Rajbir and others (supra)**, the claimants are entitled to increase of compensation keeping in view the future prospectus of earnings of Vivek. Undisputedly, Vivek was of the age of 20 years and he was getting monthly salary of ₹10,000/- per month. There is absolutely no evidence available on file from the respondents' side that the record produced by the appellants i.e. salary statements Ex.PB and PC and that of statement of PW-4 Mohd. Ali, is not believable. As Vivek was of the age of 20 years, in his case, amount of compensation is to be increased by 50% and the enhancement under the said head comes to ₹7,20,036/-.

The enhanced compensation in this case is as under:

<i>Sr.No.</i>	<i>Particulars</i>	<i>Amount (in Rs.)</i>
1	Future Prospectus of earnings	₹7,20,036/-
2	Consortium	₹90,000/-
3	Funeral Expenses and Transportation	₹10,000/-
	Total	₹8,20,036/-

That way, the total amount of compensation comes to ₹22,85,136/- (₹14,65,100/-+₹8,20,036/- enhanced compensation) against the awarded amount of ₹14,65,100/-. The enhanced amount of compensation be deposited within 45 days. However, the remaining conditions regarding rate of interest and disbursal of amount shall remain unaltered. Appeal is accordingly partly accepted.

(SHEKHER DHAWAN)
JUDGE

March 25, 2015
jt