

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 580 of 2014 (O&M)

Date of decision : 14.08.2015

Shatrudhan Ray and anotherAppellants

Versus

Ashok Kumar and othersRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Lovedeep Kaur, Advocate
for the appellants.

Mr. M.B. Jain, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants i.e. parents of the deceased Vipin praying for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal').

Brief facts are that Vipin son of the claimants was going towards Bus Stand Dharuhera on foot at about 6.00/6.15 a.m. on 04.06.2011. Offending car bearing registration No. HR 36-P-3553 driven by respondent No. 1 - Ashok Kumar in a rash and negligent manner struck against Vipin, who sustained fatal injury and succumbed to them on the spot. FIR No. 208 dated 04.06.2011 under Sections 279/304A IPC was registered at Police Station

Dharuhera against respondent No. 1.

Appellants filed claim petition under Section 166 of the Motor Vehicles Act claiming compensation to the tune of ₹20 lakhs on account of death of their son Vipin aged about 20 years. It was averred that he was working as Supervisor in M/s S.K. Contractor, Bawal Road, Karnawas and earning ₹6500/- per month from all sources. With all the respondents denying the factum of accident the claim was resisted. Insurance company raised various grounds including that of respondent No. 1 not holding a valid and effective driving licence to drive the offending vehicle. Following issues were framed by the Tribunal:

1. Whether the accident in question resulting in death of Vipin had occurred on 04.06.2011 due to rash and negligent driving of car No. HR36-P-3553 by its driver respondent No. 1? OPP
2. Whether the petitioners are entitled to compensation, if so to what amount and from whom?
3. Whether the respondent No. 1 was not holding the valid and effective driving licence at the time of alleged accident? OPR.
4. Relief.

Learned Tribunal on consideration of facts and evidence concluded that the accident in question was a result of rash and negligent driving of car No. HR 36-P-3553 by respondent No. 1.

Issue No. 3 was decided against the insurance company as

respondent No. 1 was found to have a valid and effective driving licence.

Compensation to the tune of ₹4,27,960/- was awarded to the claimants alongwith interest at the rate of 9% per annum. Income of the deceased was assessed as ₹4644/- per month in the absence of any other documentary evidence on record. Age of the deceased was 18 to 20 years of age, however, multiplier of 15 was applied considering the age of the father who was 40 years old. A sum of ₹5000/- for loss of estate and ₹5000/- for funeral expenses was awarded.

Learned counsel for the appellants while accepting the income assessed by the Tribunal submits that multiplier of 15 has been wrongly applied. No compensation has been awarded on account of loss of love and affection. Funeral expenses are liable to be enhanced. It is also prayed that the appellants are entitled to compensation on account of future prospects of the deceased. Learned counsel for the appellants relies upon the decision of the Hon'ble Supreme Court **Munna Lal Jain and others versus Vipin Kumar Sharma and others** 2015 (6) SCC 347.

Learned counsel for respondent No. 3 – insurance company while refuting the pleas taken by the appellants submits that proper compensation has already been awarded by the Tribunal which permits of no further enhancement.

I have heard learned counsel for the parties and gone through the record.

It has been held by the Hon'ble Supreme Court in

Munna Lala Jian's case (supra) that it is the age of the deceased which is relevant and has to be taken into account while assessing the multiplier. Thus, the correct multiplier to be applied in this case is 18 as admittedly the age of the deceased was between 18-20 years. 50% deduction has correctly been applied by the Tribunal in tune with the decision of the Hon'ble Supreme Court in **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77.**

In respect to addition to income on account of loss of future prospects, it has been held in **Munna Lal's** case (supra) that addition of 50% to the actual income should be added towards future prospects where the deceased is below 40 years of age. Taking future prospects in consideration for determining dependency in such cases has been approved by the Hon'ble Supreme Court in **Smt. Neeta versus The Divisional Manager, MSRTC, Kohlapur** 2015 (1) RCR 625. Therefore, the income of the deceased has to be assessed as ₹4664/-. [Rs. 2332 (income after deduction of 50%) + Rs. 2332 (addition of 50% on account of future prospects)].

As held by the Hon'ble Supreme Court in **Jiju Kuruvila versus Kunjujamma** (2013) 9 SCC 166, reiterated in **Amresh Kumari versus Niranjana Lal Jagdish Parshad Jain** 2015 (4) SCC 433 parents are entitled to ₹50,000/- each on account of loss of love and affection.

Therefore, the claimants are entitled to enhanced compensation detailed as under:-

<i>Income of the deceased (after adding 50% on account of future prospectus)</i>	₹ 4,664/-p.m.
<i>Annual dependency (4664x12)</i>	₹ 55,968/-p.m.
<i>Compensation (4664x12x18)</i>	₹10,07,424/-
Loss of love and affection (₹ 50,000/- each)	₹ 1,00,000/-
Funeral expenses	₹ 25,000/-
Total	₹11,32,424

Amount of compensation already awarded to the appellants shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per cent per annum from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

August 14, 2015
rts

(Lisa Gill)
Judge