

In the High Court of Punjab and Haryana at Chandigarh

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F.A.O. No.600 of 2014

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Date of decision:8.5.2015

Jagir Kaur and others

.....Appellants

v.

Baljinder Singh and others

.....Respondents

.....

Coram : Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Uday Chauhan, Advocates the appellants.

Mr. Vinod Gupta, Advocate for respondent No.3.

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Inderjit Singh, J.

This appeal has been filed by claimants Jagir Kaur, Anita and Barjesh for enhancement of compensation against Baljinder Singh-Driver, Sohan Singh-owner and New India Insurance Company Limited-insurer of offending vehicle No.PB-07-K-7746 and Monika, Harjit Kaur and Resham Kaur-respondents challenging the impugned award dated 7.9.2013 passed by the Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal'), vide which an award of ₹3,00,000/- along with interest @6% per annum from the date of filing of the claim petition till its actual realization has been passed.

The brief facts of the case are that claimants-Jagir Kaur (wife),

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Anita (daughter) and Barjesh (son) of Balwinder Singh Viridi (since deceased) filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') for grant of compensation against Baljinder Singh-Driver of vehicle No.PB-07K-7746 (hereinafter referred to as 'the offending vehicle'), Sohan Singh-owner and New India Insurance Company Limited-insurer of the offending vehicle and Mrs. Monika, Harjit Kaur and Resham Kaur-respondents for grant of compensation to the tune of ₹20 Lacs on account of death of Balwinder Singh alias Balwinder Viridi in a road side accident. As per the case of the claimants on 6.8.2011 at about 7.15 p.m. claimant No.1 along with her husband Shri Balwinder Singh Viridi alias Balwinder Viridi (since deceased) were coming to their house at Mohalla Saroop Nagar from vegetable market on scooter No.PB-08-AX-7859 after the purchase of vegetables. Claimant No.1 was sitting on pillion seat whereas her husband was plying/driving the scooter. When they reached near the Officer Colony Spinning Mills, Hoshiarpur, an Alto car came in a very high speed being driven by its driver in a rash and negligent manner and while overtaking another vehicle, it struck their scooter. The claimant and her husband fell on the road. Balwinder Viridi suffered multiple injuries, whereas claimant also suffered injuries on her person. Many people gathered at the place of occurrence. The claimant and her husband were shifted to the hospital. Balwinder Viridi was referred to another hospital for better treatment. Balwinder Viridi succumbed to the injuries suffered by him in the said accident. FIR No.97 dated 7.8.2011 was got registered at Police Station Model Town, Hoshiarpur. The deceased was

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47 years of age having very good health and Carpenter by profession. He was doing job of Carpenter at UAE and returned from there for marriage of his daughter and was likely to go back on 9.8.2011. Claimants No.2 and 3 are still students, whereas claimant No.1 is household lady.

The learned Tribunal taking the age of the deceased as 47 years and considering him as a Carpenter by profession held that the claimants had not placed any document to prove his income. The Tribunal took the income of the deceased at ₹3,000/- per month and after making deduction of 1/3rd applied the multiplier of 12 and granted the compensation amounting to ₹2,88,000/-. ₹12,000/- were granted for the loss of consortium and total ₹3 Lacs were awarded.

Notice of motion was issued in this case. Learned counsel for the Insurance Company contested the claim petition. Respondents No.1 and 2 and 4 to 6 did not appear to contest the appeal. The record of the Tribunal was also requisitioned.

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

As per the evidence of the claimants, the deceased was a Carpenter by profession. The Tribunal has not held that he was not a Carpenter. There is no evidence on record to say that he was not a Carpenter. The Tribunal has wrongly assessed the income of the deceased at ₹3,000/-. Even if the income of the deceased is to be taken as a labourer, even then his income has been assessed on lower side. The income of the deceased, therefore, in the facts and circumstances and in view of the

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evidence on record is assessed at ₹4,500/- per month. As per decision of the Hon'ble Supreme Court in Smt. Sarla Vema and others v. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77, in the age group of 46 to 50 years, the multiplier of thirteen should be applied. The Tribunal has correctly made deduction of $1/3^{\text{rd}}$ as there are three claimants. Therefore, from the income of ₹4,500/- per month, after deducting $1/3^{\text{rd}}$, the monthly income comes to ₹3,000/- and by applying the multiplier of 13 years, the compensation comes to $₹3,000 \times 12 \times 13 = ₹4,68,000/-$. The amount of ₹12,000/- granted by the Tribunal for the consortium is also not as per the law laid down in by the Hon'ble Supreme Court in Rajesh and others v. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170. Therefore, for the loss of consortium, an amount of ₹1 Lac is awarded. No amount for funeral expenses has been awarded. The claimants are entitled to ₹25,000/- as funeral expenses. Similarly, the claimants are also entitled for ₹1 Lac in total for love and affection. Therefore, the total compensation comes to ₹6,93,000/-. As regards the interest, the interest awarded by the Tribunal will remain the same i.e. @6% per annum from the date of filing of claim petition till actual realization. However, it is made clear that the enhanced amount will be paid to the claimants proportionately as per award.

Keeping in view the above facts and circumstances, this appeal is allowed accordingly.

May 8, 2015.

(Inderjit Singh)
Judge

hsp