

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5784 of 2015 (O&M)

Date of decision : September 09, 2015

Oriental Insurance Company Ltd.

.....Appellant

Versus

Satwant Kaur and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashish Yadav, Advocate
for the appellant.

LISA GILL, J

Present appeal has been preferred by Oriental Insurance Company impugning the award dated 21.05.2015 passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as the 'Tribunal') on account of death of Satwinder Singh. His legal heirs i.e. mother and father have been awarded compensation to the tune of ₹12,61,995/-.

Brief facts of the case are that Satwinder Singh was waiting for his father who was to arrive from Ludhiana on a bus in front of Bhatti Restaurant, Kot Fatuhi on 04.11.2014. In the meanwhile, car bearing No. PB07AD5711 driven in a rash and negligent manner by respondent No. 3 – Harman Singh arrived from

the side of village Kot Fatuhi. It struck against the motorcycle of Satwinder Singh due to which he was dragged by the car for some distance. Satwinder Singh received serious injuries and remained admitted in the hospital from 04.11.2014 to 05.11.2014 when he ultimately succumbed to his injuries sustained by him in this accident. FIR No. 116 dated 05.11.2014 under Sections 279, 304A, 427 IPC was registered against respondent No. 3.

Claim petition under Section 166 of Motor Vehicles Act was filed by the claimants claiming compensation to the tune of ₹20 lakhs on account of Satwinder Singh, who was 24 years of age. He was averred to be working as Weigh Bridge Operator in Green Planet Energy Pvt. Ltd., Binjon, Tehsil Garhshankar, District Hoshiarpur on monthly salary of ₹10,000/-. He was pursuing his Graduation as a 2nd year student and doing work of diary farming where from he was earning ₹5000/- per month additionally.

Claim was resisted by the respondents. Following issues were framed by the learned Tribunal:

1. Whether Satwinder Singh had died on 04.11.2014 due to injuries received in an accident which took place due to rash and negligent driving of respondent No. 1, while driving the offending car make Indica Vista bearing registration No. PB07AD5711? OPA
2. Whether the claimants are legal heirs/dependants of deceased Satwinder Singh? OPA.
3. Whether the claimants are entitled to receive compensation, if so, to what extent and from which of the respondents? OPA
4. Whether the respondent No. 1 was not having valid and effective driving licence? OPR-2

5. Whether the present petition has been filed in collusion with respondent No. 1? OPR-2

6. Relief.

Learned Tribunal on appreciation of evidence on record concluded that Satwinder Singh died on account of fatal injuries sustained by him in motor vehicle accident caused on account of rash and negligent driving of the offending vehicle by respondent No. 3 – Harman Singh.

Income of the deceased was assessed as ₹7,430/- per month on the basis of evidence of PW3 Rajinder Singh, Personal Administrator Officer, Green Planet Energy, Pvt. Ltd. Binjon. 50% addition was afforded on account of loss of future prospects as the deceased was 24 years old, thus, taking his income to be ₹11,145/- per month and ₹1,33,740/- per annum. As there was no evidence to prove that Satwinder Singh was engaged in diary farming thereby earning ₹5000/- per month, the same was ignored. Being unmarried, deduction of 50% was applied and income of the deceased was assessed as ₹66,870/- per annum. Multiplier of 18 was applied and loss of dependancy calculated at ₹12,03,660/-. Medical expenses as per bills proved on record to the tune of ₹23,335/- were awarded. Total compensation of ₹12,61,995/- was awarded as detailed hereunder:-

Loss of dependency	₹12,03,660/-
Expenses on medical treatment	₹ 23,335/-
Funeral charges	₹ 10,000/-
Loss of estate and general damages	₹ 25,000/-
Total	₹12,61,995/-

Learned counsel for the appellant vehemently argues that learned Tribunal has grossly erred in awarding addition of 50% on account of loss of future prospects for the reason that the deceased was not in a permanent or government job. He was not having steady income. Therefore, in such cases, this component of loss of future prospects should not be considered. Reference is made to order dated 02.07.2014 **SLP (c) No. 1673 of 2015** titled **National Insurance Company versus Pushpa and others** to argue that the matter regarding addition in income on account of future prospects in respect of self employed/privately employed persons stands referred to a larger bench by the Hon'ble Supreme Court, therefore, award of compensation on account of loss of future prospects is unjustified. No other point has been raised or urged before this Court.

However, it is not disputed that operation of the decision of the Hon'ble Supreme Court in **Rajesh and others versus Rajbir Singh and others** 2013 (3) RCR (Civil) 170 has not been stayed. In **Munna Lal Jain and others versus Vipin Kumar Sharma and others** 2015 (6) SCC 347, a decision rendered subsequent to the abovesaid reference, the Hon'ble Supreme Court has granted an addition on account of loss of future prospects.

Therefore, keeping in view the facts and circumstances of the case, I do not find any infirmity, illegality or perversity in the award dated 21.05.2015 passed by the learned Motor Accident Claims Tribunal, Hoshiarpur, which would warrant interference by this Court for reduction of compensation awarded to the claimants on account of death of Satwinder Singh.

Consequently, the appeal is dismissed.

September 09, 2015
rts

(Lisa Gill)
Judge