

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.867 of 2014 (O & M)

Date of Decision: November 03, 2015

Sunita & others

..... APPELLANTS

VERSUS

Ram Bhaj & others

..... RESPONDENT(S)

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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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. Sushil Gautam, Advocate, for the appellants.

Mr. Nitin Mittal, Advocate, for respondent No.3 – Insurance Company.

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Jaspal Singh, J

1. The instant appeal has been preferred by legal heirs of Bijender @ Vijay seeking enhancement of compensation awarded vide Award dated May 24, 2012 passed by the Motor Accident Claims Tribunal, Panipat (for short, 'Tribunal'), on account of his death in a vehicular accident, involving Cruiser Jeep bearing No.HR-68T-6497.

2. Briefly stated, the facts of the case are that on August 21, 2010, in the evening, Bijender @ Vijay along Ajay Dutt had gone to village Girawar to his friend Harpal. All the three persons and one Ramesh son of Mange Ram stayed at the house of Harpal. Next day i.e. August 22, 2010, Bijender @ Vijay and Ajay Dutt were coming to Panipat from Gohana in Car - Maruti Ritz bearing No.HR99-TMP-4749, being driven by Ajay Dutt. At about 2.15 PM, when they reached in front of Amar Shaheed Petrol Pump on Gohana – Panipat road, a Cruiser Jeep bearing No.HR-68T-6497, loaded with passengers, driven by respondent No.1 came from Panipat side at a very high speed and while coming on its wrong side, directly hit their Maruti car. The accident was witnessed by Harpal and Ramesh who were standing on the spot in wait of their friends Ajay Dutt and Bijender @ Vijay. As a result of the accident, Bijender @ Vijay died at the spot while Ajay Dutt stuck in steering in serious condition. Driver of the offending cruiser fled after leaving his vehicle at the spot. Deceased Bijender @ Vijay, Ajay Dutt and occupants of the offending cruiser were sent to Civil Hospital, Panipat. With regard to this accident, FIR No.138 dated August 22, 2010 under Sections 279, 337, 304-A IPC was registered at Police Station, Israna, on the statement of Harpal – complainant.

3. Two separate claim petitions were filed by legal heirs of Bijender @ Vijay and Ajay Dutt claiming compensation on account of their death. The petitions were contested by the respondents. The petitions were decided vide common Award dated May 24, 2012 by the

Tribunal and legal heirs of Bijender @ Vijay were awarded a compensation to the tune of ₹ 9,09,000/-.

4. Now, widow, minor children and mother of Bijender @ Vijay have come up in appeal seeking enhancement of compensation awarded vide the aforesaid award.

5. While assailing the impugned award, learned counsel for the appellants has argued that the compensation awarded by the Tribunal is on lower side. Evidence available on file has not been taken into consideration properly. Income of Bijender @ Vijay (deceased) has been assessed to the tune of ₹ 6,000/- only whereas he was earning ₹ 30,000/- per month by running a shuttering store. The amount awarded towards Loss of Love & affection, Loss of Consortium and Funeral & Last rites is inadequate. The case of deceased was squarely covered by the judgment in Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77. As such, the claimants were entitled to 50% of future prospects. Learned counsel for the appellant has contended that award passed by the Tribunal deserves to be modified and compensation is required to be enhanced.

6. Per contra, learned counsel for respondent No.3 – Insurance Company has supported the award passed by the Tribunal by contending that just and adequate compensation has been awarded. The award passed by the Tribunal is absolutely in consonance with evidence available and settled canons of law.

7. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties and scanned the record available on record.

8. Bijender @ Vijay was the sole bread earner of his family and left behind his wife, minor children and aged parents. He lost his life on August 22, 2010 in a vehicular accident. The learned Tribunal, keeping in view the evidence, oral as well as documentary, has rightly assessed the income of deceased to be ₹ 6,000/- and applied a deduction of 1/4th share, while calculating dependency. In view of law laid down by Hon'ble Apex Court in Sarla Verma Vs. Delhi Transport Corporation, 2009(2) RCR (Civil) 77, multiplier of 16 has also rightly been applied. However, the amount of compensation awarded towards Loss of Love & affection (₹ 10,000/-), Loss of consortium (₹ 5,000/-) and Funeral & Last rites (₹ 10,000/-) is on lower side and not in consonance with the law laid by pronouncements/ decisions of Hon'ble Apex Court. Thus, compensation awarded towards aforesaid counts needs to be enhanced.

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

Sr. No.	Particulars	Compensation awarded by Tribunal (₹)	Compensation enhanced by High Court (₹)
1	Income assessed	6,000/- per month	6,000/- per month
2	Dependency after deducting 1/4 th	4500/- per month (54,000/- annual)	4500/- per month (54,000/- annual)
3	Multiplier of 16	54000 x 16 = 8,64,000	54000 x 16 = 8,64,000
4	Loss of Love & affection	10,000/-	1,00,000/-
5	Loss of estate	10,000/-	10,000/-
6	Loss of Consortium (widow)	5,000/-	1,00,000/-
7	Transportation	10,000/-	10,000/-
8	Funeral & Last Rites	10,000/-	25,000/-
Total		9,09,000/-	11,09,000

10. 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 ₹ 2,00,000/- (i.e. ₹ 11,09,000 - ₹ 9,09,000/-). 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 @ 6% 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.

18. No order as to costs.

November 03, 2015
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(Jaspal Singh)
Judge