

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

FAO No.1147 of 2002.

Date of Decision: 06.04.2016.

Suman Lata and others

....Appellants.

VERSUS

Ram Lal and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Madan Pal, Advocate for the appellants.

Mr. Sidharth Sanwaria, Deputy Advocate General Haryana with
Mr. Ramesh Kumar, Assistant Advocate General, Haryana
for respondents No.2 and 3.

Mr. Sanjiv Pabbi, Advocate for respondent No.4.

SNEH PRASHAR, J.

By way of this appeal, appellants-Suman Lata and others seek enhancement of compensation awarded to them by Motor Accident Claims Tribunal, Rohtak (for short, “the Tribunal”) vide the award dated 22.03.2001 passed in Claim Petition No.52 of 2000 on account of death of Jai Singh, husband of appellant No.1, father of appellants No.2 to 4 and son of appellant No.5, who lost his life in a vehicular accident.

The relevant facts are that on 31.01.2000, Jai Singh (since

deceased) alongwith Zile Singh Chahal was going from Rohtak to Chandigarh by means of his maruti car No.HR-12C-7534. At about 1:30 p.m. when they reached near the turning of Sector-2, Pipli on Rohtak-Chandigarh road, a bus bearing registration No.HR-37-7036 (hereinafter referred as to “the offending bus”) being driven rashly, negligently and in a high speed by Ram Lal (respondent No.1) came from opposite direction and dashed into his car. Because of the impact, the car got entangled underneath the offending bus and was dragged upto a distance of 10 paces. Both the occupants of the car sustained grievous and fatal multiple injuries and died at the spot.

A First Information Report No.30 dated 31.01.2000 under Sections 279 and 304-A of the Indian Penal Code in respect of the accident was registered against respondent No.1 at Police Station Sadar, Thanesar.

The claimants-appellants filed a petition seeking compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) on the ground that the accident occurred entirely due to rash and negligent driving of the offending bus by respondent Ram Lal. The owner and insurer of the bus were also impleaded as respondents.

The claim petition was contested by the respondents. On the basis of the pleadings of the parties, issues were settled. Both the parties adduced evidence to discharge the onus of the issues on them. Considering the evidence available on record and the submissions made on behalf of the parties, learned Tribunal allowed the petition and awarded compensation to the tune of Rs.4,80,000/- alongwith interest at the rate of 9% per annum

from the date of filing the petition till realizations. Respondents No.1 to 3 were held jointly and severally liable for payment of the amount of compensation and insurance company was absolved of the liability to indemnify the insured.

Feeling dissatisfied, the claimants-appellants preferred the instant appeal.

The submissions made by Mr. Madan Pal, learned counsel for the appellants, Mr. Sidharth Sanwaria, Deputy Advocate General, Haryana assisted with Mr. Ramesh Kumar, Assistant Advocate General, Haryana for respondents No.2 and 3 and Mr. Sanjiv Pabbi, learned counsel for respondent No.4-insurance company have been heard.

Learned counsel for the appellants-claimants argued that the deceased was a Junior Engineer and was drawing a salary of Rs.12,474/- but learned Tribunal deducting Rs.3999/- as loan installment, wrongly assessed the income of the deceased as Rs.8475/- per month. Learned Tribunal also erred in deducting Rs.125/- paid as medical allowance, Rs.100/- as conveyance allowance and Rs.595/- as house rent allowance out of the total salary of the deceased. Learned counsel further contended that no amount was added to the income of the deceased computing future prospects. The deceased being 44 years of age at the time of accident, multiplier of '14' should have been applied by learned Tribunal instead of '10'. The interest awarded at the rate of 9% per annum is on the lower side as it should have been awarded at the rate of 18% per annum

Indeed, PW4 Virender Singh, Accountant, deposed that

deceased Jai Singh was working as a Junior Engineer in Haryana State Cooperative Apex Bank Ltd., Chandigarh and at the time of his death he was drawing a salary of Rs.12,474/- per month. He produced and proved the salary certificate Ex.PW4/A and deposed that the deceased had taken house loan of Rs.4,05,000/- and an amount of Rs.3999/- was being deducted from his salary towards that loan and as such the carry home salary of the deceased was Rs.8475/- per month. Since the amount of loan had been taken and availed by the deceased and it was repayable by way of installments out of the salary, the said amount was rightly not included in the income of the deceased by learned Tribunal. The age of deceased Jai Singh, when he died in accident, was 45 years and the multiplier of '14' should have been applied by the Tribunal instead of '10' as per the law laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77.** The deceased was survived by widow Suman Lata, three minor children Pooja, Ajay Kumar and Ashish Kumar and mother-Chander Devi, therefore, as held in **Sarla Verma and others'** case (supra) the deduction of 1/4th towards personal and living expenses should have been made by learned Tribunal. At the same time, in the light of ratio of **Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170** there had to be an addition of 30% to the actual income of the deceased on account of future prospects, which the Tribunal failed to allow. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income (in Rupees)	Rs.8475/-
2.	Actual age of the deceased	45 years
3.	Increase in future income as per Rajbir Singh and others' case (supra)	Rs.2542/-
4.	Annual dependency	1/4 of Rs.11017 x 12 = Rs.99,153/-
5.	Multiplier	14
6.	Total	Rs.13,88,142/-

In addition to the amount of Rs.13,88,142/- calculated towards dependency, an amount of Rs.25,000/- is awarded under the head of funeral expenses. A further amount of Rs.1,00,000/- is allowed to appellant-claimant No.1 on account of loss of consortium and another amount of Rs.1,00,000/- is awarded to the appellants-claimants No.2 to 5 on account of loss of love, care and guidance. The rate of interest allowed by learned Tribunal shall remain the same.

Accordingly, the appeal filed by the appellants-claimants is partly allowed and the award dated 22.03.2001 passed by learned Tribunal is modified. The enhanced compensation of Rs.11,33,142/- shall be deposited by the respondents within 45 days from the date of receipt of certified copy of this judgment failing which the appellants-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of this order till realization. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

06.04.2016.
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