

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3518 of 1999 (O&M)
Date of Decision : 29.07.2016

Smt. Sukh Devi

.....Appellant

Versus

Dori Lal and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Shiv Kumar, Advocate
for the appellant.

Mr. Sandeep Kotla, Advocate
for respondent no. 2.

Surinder Gupta, J.

This is appeal by claimant-Smt. Sukh Devi seeking enhancement of compensation of ₹70,000/- awarded by Motor Accident Claims Tribunal, Faridabad (later referred to as 'the Tribunal') for death of her son Dhirender Yadav (later referred to as 'the deceased') aged about 20 years, in a motor vehicle accident on 02.04.1997, with U.P. Road Transport Corporation bus bearing registration no. UAV-9188 (later referred to as 'the offending vehicle').

2. Case of claimant, in brief, is that Dhirender Yadav (deceased) with Anoop Singh (injured in the accident) was coming to Faridabad from Ballabgarh on bicycle. Anoop Singh was pillion rider on the cycle, which was being paddled by the deceased. At about 11.00 a.m., when they reached near Goodyear Factory and took a turn towards Sector 6, the offending vehicle, which was being driven in a rash and negligent manner, hit the cycle resulting in injuries to both i.e. the deceased and Anoop Singh. They were moved to B.K. Hospital, where Dhirender Yadav succumbed to injuries.

3. Respondents no. 1 and 2 i.e. driver and owner of the offending

vehicle denied the accident and respondent no. 2 owner of the offending bus pleaded that the deceased was driving the cycle in a zig-zag manner and all of a sudden hit the bus from conductor side resulting in injuries to him.

4. On appraisal of evidence, the Tribunal concluded that accident took place due to rash and negligent driving of offending vehicle by respondent no. 1.

5. Husband of claimant has died during pendency of claim petition and the Tribunal held that appellant was dependant on the deceased. The Tribunal assessed compensation of ₹70,000/- awarded to claimant with observations in para 11 of the award, which reads as follows:-

“11. Since the petitioner has emerged as triumphant to establish issues no. 1 and 2, so it can very well be said that she is entitled to compensation. However, in order to quantify the assessment of compensation, mother lost her husband during pendency of the petition, as such, she also lost companionship of her son Dhirender, who died in motor vehicle accident in the prime of his age. So the quantum of compensation is assessed at ₹70,000/- and the responsibility to pay the same is fastened upon both the respondents jointly and severally.”

6. I have heard learned counsel for the parties and perused record of the Tribunal and paper-book with their assistance.

7. Deceased was in the age group of 20 to 22 years. Claimant has alleged that the deceased was in service of M/s Orphic Dyeing and Printing Mill, Faridabad as a contract worker and was earning ₹3000/- per month plus over time. Injured in the accident, Anoop Singh was also working in

was earning ₹3000/- per month. Sukh Devi-claimant while appearing as PW-5 has also stated income of the deceased as ₹3000/- per month. However, no documentary evidence regarding income of the deceased was placed on record. The accident took place in the year 1997. The Tribunal has awarded a lump sum of ₹70,000/- without making any calculation. There is no basis as to how the Tribunal has computed this amount of ₹70,000/- awarded as compensation for death of a young boy.

8. Keeping in view un rebutted statements of PW-1 Anoop Singh and PW-5 Sukh Devi-claimant, monthly income of the deceased is assessed as ₹2500/- per month. It has been observed by Apex Court in case **Munna Lal Jain and others vs. Vipin Kumar Sharma and others, 2015 (3) RCR (Civil) 447** that multiplier is to be applied as per age of the deceased and not as per age of claimant(s), as such, in view of age of the deceased, multiplier attracted to this case while assessing amount of compensation as per observation of Apex Court in case **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121** is 18. As per observation of Apex Court in **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54** and **Munna Lal Jain’s case (supra)**, claimant is entitled to 50% addition in income of the deceased towards future prospects. Deduction of ½ of income of the deceased is to be made towards his personal expenses as he was a bachelor. In addition to above, claimant is also entitled to compensation of ₹50,000/- towards loss of estate, love and affection and ₹10,000/- towards funeral expenses.

9. In view of my discussion above, compensation to which claimant is entitled, is reassessed as follows:-

Sr. No.	Heads	Calculation
(i)	Age of Dhirender Yadav (deceased)	20 years

(ii)	Date of accident	02.04.1997
(iii)	Income of the deceased	₹2500 per month
(iv)	50% of (iii) to be added towards future prospects	₹2500+₹1250 = ₹3750
(v)	½ of (iv) to be deducted as personal expenses of the deceased	₹3750-₹1875= ₹1875 per month
(vi)	Compensation after multiplier of 18 is applied	(₹1875X12X18) = ₹405000
(vii)	Loss of estate, love and affection for the mother	₹50000
(viii)	Compensation for funeral expenses	₹10000
Total		₹465000

9. As a sequel of my discussion above, the appeal has merit and is accepted. Award of the Tribunal is modified and compensation allowed to claimants is enhanced from ₹70,000/- to ₹4,65,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Respondents will deposit the amount of compensation in the bank account of claimant-appellant or pay the same through demand draft.

July 29, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No