

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

FAO-1042-2010 (O&M)
Date of decision: 30.3.2016

Maya Devi

...Appellant

Versus

Sharwan Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Kuldeep Khandelwal, Advocate for the appellant

Ms.Shamsher Kaur, Advocate for respondent No.2

Mr.Ramesh Kumar, AAG, Haryana
for respondent No.3 and 4

Mr.Rajneesh Malhotra, Advocate
for respondent No.5

SNEH PRASHAR, J.

The present appeal has been filed by the claimant-appellant for enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Sirsa (for short 'the Tribunal'), vide award dated 12.11.2009, on account of death of Gurdayal Singh, husband of the appellant, in a motor vehicular accident.

The accident which took life of Gurdayal Singh occurred on 20.8.2006 and was caused by Canter No.HR-37-1892 driven by one Manoj Kumar, driver. Two claim petitions one by

Maya Devi (present appellant) and other by Meeran Devi @ Veeran Bai and others being legal representatives of deceased Gurdayal Singh invoking the provisions of Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act of 1988') claiming compensation were filed.

The claim petitions were contested by the respondents but learned Tribunal considering the evidence led by the parties and the submissions made on their behalf, awarded a sum of Rs.6,37,800/- to the appellants-claimants in the ratio of 50:50 (50% to both the children of Meeran Devi @ Veeran Bai and remaining 50% to both the wives in equal share).

Feeling dissatisfied with the compensation awarded by learned Tribunal, the claimant-appellant preferred the instant appeal.

The submissions made by Mr.Kuldeep Khandelwal, Advocate representing the appellant, Ms.Shamsher Kaur, Advocate for respondent No.2, Mr.Ramesh Kumar, Assistant Advocate General, Haryana for respondents No.3 and 4 and Mr.Rajneesh Malhotra, Advocate for respondent No.5 have been heard and record perused.

The fact that Gurdayal Singh died due to the injuries suffered by him in a vehicular accident caused by Manoj Kumar, driver of the offending vehicle is no longer in dispute. The deceased was employed as driver in Haryana Roadways. As per his service

record, he was 45 years old at the time of his death. PW2 Bhag Mal, Clerk, Haryana Roadways proved the salary of the deceased and deposed that his gross salary was Rs.11,962/- per month but after deduction, he was drawing net amount of Rs.6643/- per month. Being a matter of record the income of the deceased as proved by PW2 Bhag Mal, Clerk Haryana Roadways calls for no intervention.

Since the deceased was 45 years aged, following the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**, the multiplier is enhanced to 14.

As nothing was awarded under the head of loss of consortium and funeral expenses of the deceased, in view of the law laid down in **Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945** an amount of Rs.One lac is allowed on account of loss of consortium to be equally shared between both the wives and Rs.25,000/- is allowed under the head of funeral expenses.

Accordingly, the compensation under the loss of dependency comes to Rs.7,44,016/- i.e. Rs.6643/- (monthly income) $\times \frac{1}{3}$ rd (deduction towards personal and living expenses of the deceased) $\times 12 \times 14$ (multiplier). The enhanced amount comes to Rs.1,31,216/-, which does not include the amount enhanced under the head of loss of consortium.

Learned Tribunal apportioned the compensation as 50%

to the children of Meran Devi and remaining 50% to both the wives in equal share. In this manner, appellant Maya Devi is entitled to only 25% of the enhanced compensation i.e. Rs.32,804/- plus Rs.50,000/- awarded on account of loss of consortium.

It is pertinent to mention here that in connected FAO-3240-2010 filed by Meeran Devi @ Veeran Bai and others, the matter was amicable settled between Meeran Devi @ Veeran Bai and others (appellants therein) and the respondent- Insurance Company before the Permanent Lok Adalat of this Court and a sum of Rs.38,000/- over and above the amount awarded by the Tribunal was allowed to them. Since, the calculation of learned Tribunal for working out the amount of compensation payable towards loss of dependency has been modified on merits in the instant appeal and in the enhanced compensation the children of the deceased would have a share, it is ordered that the amount of Rs.38000/- received by Meeran Devi @ Veeran Bai by way of settlement before the Lok Adalat, will be adjusted towards her share in the enhanced amount allowed by way of this appeal on account of loss of consortium and the remaining amount of Rs.12,000/- will be paid to her. Out of the remaining enhanced amount, as per the apportionment done by learned Tribunal in the impugned award, Rs. 65608/- i.e. 50% will be share of the children of the deceased namely Ishwar Singh @ Satish and Reeta @ Neetu to be paid in equal shares to them. The

share of appellant Maya Devi in the enhanced amount i.e. Rs.82,804/- shall be paid to her. In addition to the amount of Rs.12,000/- payable on account of loss of consortium as discussed above, Meeran Devi @ Veeran Bai will also be entitled to Rs.32804/- out of the remaining enhanced compensation.

The enhanced amount of compensation shall be paid by the respondent – Insurance Company within two months from the date of receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of filing of the appeal till its realisation.

In view of the above, the present appeal is partly allowed and the award is modified to the above extent.

30.3.2016
gsv

(SNEH PRASHAR)
JUDGE