IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5444 of 2011 (O&M)
Date of Decision: 26.08.2016

Satpal

......Appellant

Vs

Tarlochan Singh and others

.....Respondents

CORAM: ***HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Ms. Richa Mittal, Advocate for
Mr. Inderjeet Sharma, Advocate
for the appellant.

Respondents No.1 and 2 already ex parte.

Ms. Vandana Malhotra, Advocate
for respondent No.3.

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RAJ MOHAN SINGH, J.

CM No.20255-CII of 2011

For the reasons mentioned in the application, delay of 99 days in filing the appeal is condoned.

Application stands disposed of.

FAO No.5444 of 2011

[1]. This is an appeal for enhancement of compensation granted by the Motor Accident Claims Tribunal, Chandigarh (for short 'Tribunal') vide award dated 16.11.2010.

[2]. The claimant-appellant filed a petition under Section 166 of Motor Vehicles Act, 1988 (for short 'Act') for grant of compensation on account of death of Ramji Dass son of Chajju Ram in a vehicular accident which took place on 20.09.2006 at about 6.15 P.M in village Mullanpur, Tehsil Kharar, District SAS Nagar Mohali.

[3]. Claimant-appellant is the son of deceased Ramji Dass. On 20.09.2006, deceased Ramji Dass along with claimant and his wife had gone to Radha Soami Satsang Bhawan, Mullanpur Garibdass to attend the Satsang. After hearing Satsang, they came in front of Satsang Gate on the road and were standing on the left side for going to their home. In the meantime, motorcyclist respondent No.1-Tarlochan Singh came on the road while driving the motorcycle in a rash and negligent manner with a very high speed and without observing traffic rules, he hit the deceased. The motorcyclist fled away after the accident. Deceased-Ramji Dass received multiple injuries on various parts of his body including the head injuries. He was removed to PGI Chandigarh where he remained admitted for 22 days.

[4]. Under issue No.1, Tribunal held that the accident took place due to rash and negligent driving of respondent No.1. Under issue No.3, Insurance Company was held liable to make

good the compensation as the vehicle was duly insured. However, a specific plea was taken by respondent No.3 that respondent No.1 was not holding a valid driving licence at the time of accident and respondent No.1 was driving the offending vehicle in violation of terms and conditions of the policy as Ex.P7.

[5]. Respondent No.1 did not contest the claim petition and was proceeded against ex parte. In the absence of driving licence, respondent No.3 could not verify the same. On the other hand, respondent No.1 was being prosecuted in criminal Court for the offences under Sections 279, 304-A IPC and under Section 181 of Motor Vehicles Act. Even in the record of the criminal case, copy of driving licence of respondent No.1 was not available. The Tribunal drew assumption that he was not holding a valid driving licence, therefore, Insurance Company was given right to recover the amount from respondent No.1.

[6]. Under issue No.2, Tribunal held that deceased was 60 years of age. His income was assessed to be Rs.3,000/- per month. Annual income was assessed to be Rs.36,000/-. 1/3rd was deducted towards self expenses, therefore, annual dependency was calculated to the tune of Rs.24,000/-. A multiplier of 9 was applied and total amount comes to Rs.2,16,000/-. An amount of Rs.2500/- was assessed towards

loss of estate besides granting Rs.2000/- towards funeral expenses. In total, the claimant was held entitled to Rs.2,20,500/-.

[7]. The amount of compensation was to be paid by respondents No.1 to 3 jointly and severely along with interest @ 7.5% per annum from the date of filing of petition till final realisation of the amount. Out of the awarded amount, 50% were to be paid in cash to claimant and remaining amount to be deposited in some fixed deposit scheme of a Nationalized bank of the choice of claimant for two years. Recovery rights were granted to the Insurance Company.

[8]. I have learned counsel for the parties.

[9]. Learned counsel for the appellant contended that compensation is to be awarded under the category of general damages and special damages. The deceased succumbed to injuries and remained hospitalized for 22 days. An amount of Rs.2000/- towards funeral expenses and Rs.2500/- for loss of estate are on the lower side. No award has been made towards loss of love and affection to the claimant. In view of long hospitalization, claimant is also entitled to medical expenses. The deceased was running a sea saw. Even if, there is no evidence of earning of the deceased accept the assertion made by the claimant, but keeping in view the age expectancy in India,

a man of 60 years of age is not necessarily be an idle person or placed without work. Tribunal has assessed notional income of the deceased to be Rs.3000/- per month based on the category of unskilled labour.

[10]. In my considered view, deduction to the tune of 1/2 towards self expenses is a lawful application even, if, the claimant was only son of the deceased. The monthly income has to be enhanced to the tune of Rs.6000/- per month keeping in view the daily wage applicable during relevant period of accident. After deducting 50%, the monthly income of the deceased would come out to be Rs.3000/- and Rs.36,000/- (Rs.3000x12) per annum. Keeping in view the age of the deceased and while applying the table given in ***Smt. Sarla Verma and ors Vs. Delhi Corporation And anr, 2009(3) RCR (Civil) 77,*** multiplier of 9 has to be applied to the annual dependency of Rs.36,000/- and total amount would come out to be Rs.3,24,000/-. An amount of Rs.1,00,000/- is to be assessed towards loss of love and affection .The amount of funeral expenses towards conventional charges would be in consonance with the ratio laid down in ***Rajesh Vs. Rajbir Singh, 2013 ACJ 1403.*** Rs.25,000/- towards funeral expenses and an amount of Rs.20,000/- is to be calculated towards loss of estate keeping in view the age of the deceased and income

based on daily wage basis. Since the deceased remained hospitalized in PGI, Chandigarh for at least 22 days even though there is no medical evidence on record, but the award of compensation is required to be made on some guess work also. Keeping in view the period of hospitalization of the deceased before his death, a meager amount of Rs.25,000/- would be just and appropriate to make out the exigency of medical expenses. If the aforesaid amount is added upto an amount of Rs.3,24,000/- as calculated above, the total amount of compensation would come out to be Rs.4,94,000/-.

[11]. In view of the amount earlier awarded the following difference can be calculated:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in appeal	Difference
1	Monthly Income	2000/- (after deduction of 1/3rd out of 3000)	3000/- (after deduction of 50% out of 6000)	
2	Annual Dependency	2000 x12 = 24000	3000 x 12 =36000	
3	Compensation after multiplier of 9 is applied	2,16,000/- (24000 x 9)	3,24,000/- (36000 x 9)	1,08,000/-
4	Funeral expenses	2000/-	25,000/-	23,000/-
5	Loss of estate	2500/-	20,000/-	17,500/-
6	Medical expenses	Nil	25,000/-	25,000/-

7	Total compensation	2,20,500/-	4,94,000/-	2,73,500/-

[12]. The difference in the amount i.e. Rs.2,73,500/- is required to carry the same rate of interest i.e. 7.5% per annum as awarded by the Tribunal from the date of filing of petition till the final realisation of the amount.

[13]. Accordingly, the present appeal is disposed of with aforesaid modification.

26.08.2016 **(RAJ MOHAN SINGH)**
Prince **JUDGE**

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No