

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5585 of 2011 (O&M)
Date of Decision : 27.04.2016

Joga Singh and another

.....Appellants

Versus

Bhoop Singh Yadav and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gurinder Pal Singh, Advocate
for the appellants.

Mr. Arun Sharma, Advocate
for Mr. T.K. Joshi, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Rewari (later referred to as 'the Tribunal') for death of Laxman Singh (deceased), son of claimants-appellants, in a motor vehicle accident with motorcycle bearing registration No. HR-36-M-5672 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal is enhancement of compensation sought by appellants, detailed facts of the case are being skipped for the sake of brevity.

3. Case of claimants, in brief, is that the deceased died in a motor vehicle accident with the offending vehicle on 30.01.2010. The deceased was 22 years of age.

4. Learned counsel for the appellants has argued that the deceased was an agriculturist but the Tribunal has taken his income as ₹4200/- per month to calculate the amount of

dependency. The Tribunal applied multiplier of 13 keeping in view the age of claimants but as per observations in case of **Munna Lal Jain and others vs. Vipin Kumar Sharma and others, 2015 (3) RCR (Civil) 447**, the multiplier is to be applied as per age of the deceased. Claimants are also entitled to addition in income of the deceased towards future prospects as per observations in cases of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54** and **Munna Lal Jain (supra)**. The Tribunal allowed compensation of ₹5000/- towards loss of estate and ₹5000/- towards funeral expenses, which are also on lower side. The accident had taken place at Dharuhera in Haryana while claimants were residing at village Gyanpur (Ainchta), Tehsil Sitarganj, District Nainital and had also spent on carrying dead body from the place of accident to their village for cremation.

5. Learned counsel for respondent no. 3-Insurance Company has argued that the Tribunal has to allow just and reasonable compensation to the victim/dependants of the victim in a motor vehicle accident. The amount of compensation allowed in this case as ₹3,37,600/- is just and reasonable and calls for no further enhancement.

6. I agree with learned counsel for respondent no. 3-Insurance Company to the extent that the Tribunal has to allow just and reasonable compensation to the victim or dependents of victim in motor vehicle accident case. The quantum of 'just and reasonable' compensation depends upon facts of each case. Apex Court in a catena of judgments has settled the law relating

to norms required to be taken care while computing the quantum of compensation.

7. In the case of ***Munna Lal Jain (supra)***, three Judges Bench of the Apex Court has observed that while computing the amount of compensation, age of the deceased is to be taken into consideration and not the age of claimants. The deceased in this case was 22 years of age and as per norms laid down in the case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, multiplier applicable while calculating the amount of compensation for loss of dependency is 18. The Apex Court in the case of ***Rajesh (supra)*** and ***Munna Lal Jain (supra)*** has allowed addition of 50% in income of the deceased where the deceased in a motor vehicle accident is less than 40 years of age. Claimants are also entitled to addition in income of the deceased to this extent. For the loss of estate, love and affection, amount of compensation allowed by the Tribunal is quite meagre and calls for enhancement to ₹1 lac. Claimants are also allowed funeral expenses and transportation charges as ₹40,000/- keeping in view the fact that they had to carry dead body of the deceased from the place of accident to far off place near Nainital, Uttarakhand.

8. In view of my discussion above, the compensation to which claimants are entitled is tabulated as follows:-

Sr. No.	Heads	Calculation
(i)	Income of the deceased Laxman Sing as assessed by the Tribunal	₹4200 per month
(ii)	50% of (i) above to be added as future prospects	₹4200+₹2100 = ₹6300 per month

(iii)	1/2 nd of (ii) deducted as personal expenses of the deceased who was bachelor	₹6300-₹3150 = ₹3150 per month
(iv)	Compensation after multiplier of 18 is applied	(₹3150X12X18) = ₹680400
(v)	Loss of estate, love and affection for claimants	₹100000
(vi)	Funeral & transport expenses	₹40000
<i>Total</i>		₹820400

9. As a sequel of my above discussion, the appeal is accepted. Award of the Tribunal is modified and compensation allowed to claimants is enhanced from ₹3,37,600/- to ₹8,20,400/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants, as per award passed by the Tribunal, in their bank accounts or pay the same through demand drafts. Counsel fee is assessed at ₹ 20,000/-.

April 27, 2016
jk

(SURINDER GUPTA)
JUDGE