

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

FAO No.3900 of 2012(O&M)

Date of Decision: April 25, 2016

Smt.Prem and another

...Appellants

Versus

Jagjeet and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.M.S.Kathuria, Advocate for
Mr.Rakesh Nehra, Advocate Advocate for
the appellants – claimants.

Mr.Amrinder Singh Sidhu, Advocate for
respondent No.3 – Insurance Company.

HARINDER SINGH SIDHU, J.

The present appeal has been filed by Smt.Prem and Kamal Singh, parents of Purjeet (deceased) for modification of the Award dated 4.5.2012 passed by the Learned Motor Accident Claims Tribunal, Jhajjar (for brevity `the Tribunal'), whereby, a compensation of Rs.2,67,400/- along with interest at the rate of 7% per annum from the date of filing of the petition till realisation of the awarded amount was granted in favour of the claimants.

On 15.12.2009 at about 8.00 am, Purjeet, being the helper/cleaner started his journey from Jamshedpur (Jharkhand) to Guahati (Assam) in Truck No.HR-46-D-5424, driven by Jagjeet Singh – respondent No.1 (brother of Purjeet). When, the vehicle reached on National Highway No.34 near Ahrian Halt within the area of Police Station Suti Murshidabad (West Bengal), respondent No.1 lost control over the truck due to his rash

and negligent driving and ultimately, it strayed into the ditches with great force. Both the driver and cleaner (Purneet and Jagjeet Singh) received injuries. Purjeet succumbed to the injuries on the spot, whereas, Jagjeet Singh was treated in the hospital.

Parents of the deceased filed claim petition pleading that the deceased was 25 years old and he was working as helper/cleaner on the offending vehicle and was getting a sum of Rs.3300/- per month as salary. They also pleaded that they had spent Rs.50,000/- on the transportation and last rites of the deceased.

Upon notice, respondents No.1 and 2 filed joint written statement admitting the accident, age, employment and income of the deceased, but denied rashness and negligence on the part of respondent No.1 – driver. Respondent No.3 – Insurance Company filed a separate written statement denying the alleged manner of the accident as also the income and age of the deceased. It also took the plea that the driver was not holding a valid and effective driving license at the time of the accident.

Pleading of the parties led to framing of the following issues:-

- “1. Whether the respondent No.1 was rash and negligent while driving the truck bearing registration No.HR-46-D-5424, as alleged in the petition? OPP*
- 2. If issue No.1 is proved, whether the petitioners are entitled for compensation on account of death of Purjeet Singh in the accident in question, if so to what amount and from whom? OPP*
- 3. Whether respondent No.1 had no valid and effective driving license to drive the offending vehicle at the relevant time? OPR-3*
- 4. Whether respondent No.2 contravened the terms and conditions of the insurance Policy, if so its effect? OPR-3*

5. *Relief.*”

Considering the evidence brought on record by the parties, all the issues were decided in favour of the claimants and against the respondents. Considering the statement of Kamal Singh – claimant (father of the deceased) and Satpal – employer of the deceased, who appeared in the witness box as PW1 and PW3 respectively, the Tribunal determined the income of the deceased at Rs.3300/- per month and deducted 50% towards personal and living expenses of the deceased. It assessed the annual loss of dependency at Rs.19,800/- and based on the age of the claimants, applied the multiplier of 13. The total loss of dependency was assessed at Rs.2,57,400/-. Besides, Rs.5000/-, each, for transportation and funeral expenses were also awarded.

Ld. Counsel for the claimants has stated that as per the settled law in Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr, 2009(6) SCC 121, Rajesh and others vs. Rajbir Singh and others, 2013 ACJ 1403, Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65, Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (7) SCC 476 and Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347 50% increase in income on account of future prospects should have been given and multiplier was to be applied in view of the age of the deceased and not the dependants. He also submits that the claimants are also entitled to compensation for loss of love and affection, besides increase in the amounts of funeral expenses and transportation.

In Rajesh and others vs. Rajbir Singh and others, 2013 ACJ 1403, the Hon'ble Supreme Court has held that in case of self-employed or

persons with fixed wages, below 40 years, there must be an addition of 50% to the actual income of the deceased. In the instant case, the deceased Jarnail Singh was 25 years old and, thus, his income was required to be enhanced by 50% towards future prospects.

Now, coming to the second argument, the matter regarding application of multiplier was examined by three Judges Bench of the Hon'ble Supreme Court in the case of **Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65**, in which **Smt.Sarla Verma** (supra), was considered and it was held that multiplier as given in Smt.Sarla Verma's case (supra) has to be applied. In the said case, Supreme Court applied the multiplier as per age of the deceased.

In **Munna Lal Jain** (supra), the Hon'ble Supreme Court has upheld the same view that multiplier is to applied with reference to the age of the deceased and not age of dependents of deceased. As the deceased was 25 years old, multiplier of 18 was required to be applied. Besides, the claimants are also entitled to Rs.25,000/-,each towards funeral expenses and transportation as also Rs.1,00,000/- towards loss of love and affection.

In view of above, the claimants are entitled to compensation as under:-

Sr.No.	Heads	Calculation (In Rs.)
(i)	Loss of Income (after 50% increase)	3300+[3300x50/100] = 4950/- p.m.
	50% of (i) deducted as personal and living expenses of deceased	4950-[4950x50/100] 2475/-
	After applying multiplier of 18	2475x12x18= 5,34,600/-
(ii)	Loss of Love and Affection (exclusively for claimant mother)	1,00,000/-

(iii)	Funeral Expenses	25,000/-
(iv)	Transportation charges	25,000/-
	Total Compensation awarded	6,84,600/-

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation of Rs.6,84,600/-, that is, Rs.4,17,200/- (684600-267400) over and above the amount awarded by the Tribunal. The amount awarded towards loss of love and affection shall be exclusively payable to the appellant-mother of the deceased. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

April 25, 2016

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(HARINDER SINGH SIDHU)
JUDGE