

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

FAO No.1921 of 2013(O&M)

Date of Decision: April 11, 2016

Sunita and another

...Appellants

Versus

Jaswant Singh and others

...Respondents

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

Present: Ms.Ekta Thakur, Advocate for
Mr.Vihal Singh, Advocate for the appellants.

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

HARINDER SINGH SIDHU, J.

The present appeal has been filed by Sunita and Balkar Singh, parents of Jarnail Singh (deceased) for modification of the Award dated 3.1.2013 passed by the Learned Motor Accident Claims Tribunal, Chandigarh (for brevity `the Tribunal'), whereby, a compensation of Rs.5,16,134/- along with interest from the date of filing of the petition till realisation of the awarded amount was granted in favour of the claimants.

On 29.5.2009 Jarnail Singh was coming from Dera Bassi to Zirakpur on motorcycle No.PB-65-4151(T). At about 12.30 p.m., when he reached near Sada Shiv Complex, respondent No.1 – Jaswant Singh came driving offending truck No.HR-68-1985 rashly and negligently and at a very high speed and struck against the motorcycle of Jarnail Singh from back side, as a result of which , he fell down and his head was crushed under the

wheel of the truck. Jarnail Singh died on the spot and the motorcycle was also damaged in the accident.

Parents of the deceased filed claim petition pleading that the deceased was 22 years old and he was working as skilled worker in the needle factory, Industrial Area, Phase-I, Chandigarh on a monthly salary of Rs.5000/-.

Upon notice, respondents No.1 and 2 filed joint written statement, while respondent No.3 filed a separate one taking the pleas regarding maintainability, validity of driving license and the permit, etc., which led to framing of issues by the Tribunal and consequently evidence was led by the parties. Considering the evidence of PW3 Anil Kumar Mangal, Assistant Manager (HR), Groz Backert Asur Private Limited, Industrial Area, Chandigarh, who proved the appointment letter, joining report and salary of deceased Jarnail Singh as Ex.P7 to Ex.P9, the Ld. Tribunal assessed the income of the deceased at Rs.5041/- per month. It also added 30% of the income towards future prospects and after deducting 50% towards personal living expenses of the deceased, applied the multiplier of 13 considering the age of the claimant-dependent mother (48 years). It awarded compensation as under:-

Sr.No.	Head under which amount awarded	Amount
1.	Loss of dependency	Rs.5,11,134/-
2.	Expenses incurred on transporation, funeral and last rites	Rs.5000/-
	TOTAL	Rs.5,16,134/-

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 the increase towards future prospects should have been 50% and multiplier was to be applied as per 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 amount of funeral expenses.

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 22 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 and others v. Delhi Transport Corportaion and another, 2009(3) RCR (Civil) 77, 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. Once again, in a recent judgement in Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347, the Hon'ble Supreme Court has upheld the same view that multiplier is to be

applied with reference to the age of the deceased and not age of dependents of deceased. As the deceased was 22 years old, multiplier of 18 was required to be applied. Besides, the claimants are also entitled to Rs.25,000/- towards funeral expenses and 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)	$5041 + [5041 \times 50 / 100] = 7561.50 \text{ p.m.}$
	50% of (i) deducted as personal and living expenses of deceased	$7561.5 - [7561 \times 50 / 100] = 3780.75$
	After applying multiplier of 18	$3780.75 \times 12 \times 18 = 8,16,682/-$
(ii)	Loss of Love and Affection (exclusively for claimant mother)	1,00,000/-
(iii)	Funeral Expenses	25,000/-
(iv)	Transportation charges	5,000/-
	Total Compensation awarded	9,46,642/-

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.9,46,642/-, that is, Rs.4,30,508/- (946642-516134) over and above the amount awarded by the Tribunal. 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 11, 2016

(HARINDER SINGH SIDHU)
JUDGE

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