

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3122 of 2013 (O&M)

Date of Decision : 21.07.2016

Karam Singh and others

.....Appellants

Versus

Kuldeep Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Inderpal Singh, Advocate
for the appellants.

Mr. Vipul Sharma, Advocate
for Mr. Paul S. Saini, Advocate
for respondent no. 3.

Surinder Gupta, J.

This is appeal by claimants against award dated 18.02.2013 passed by Motor Accident Claims Tribunal, Ludhiana (later referred to as 'the Tribunal') allowing compensation for death of Sukhvir Singh in a motor vehicle accident with car bearing registration No. HR-02-K-6380 (later referred to as 'the offending vehicle')

2. As claimants are seeking enhancement of compensation, detailed facts relating to the accident pleaded by parties are not being discussed for the sake of brevity.

3. The Tribunal held that the accident had taken place due to rash and negligent driving of offending vehicle by its driver respondent no. 1- Kuldeep Singh. Claimants were awarded compensation of ₹14,50,000/-, which was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹10000 p.m.

(ii)	Amount of dependency after applying deduction of 1/3 rd towards personal expenses	(₹10000-₹3333)= ₹6667
(iii)	Compensation after applying multiplier of 18	(₹6667X18X12)= ₹1440072 (rounded off to ₹1440000)
(iv)	Compensation for transportation and funeral expenses	₹10000
Total		₹1450000

4. Relying on the observations of Apex Court in cases of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54** and **Munna Lal Jain and others vs. Vipin Kumar Sharma and others, 2015 (3) RCR (Civil) 447**, learned counsel for appellants has argued that claimants-appellants are entitled to addition in income of the deceased towards future prospects. Minor son of the deceased, namely, Sahibpreet Singh is also entitled to compensation towards loss of love and affection care and guidance and mother of the deceased, namely, Harpinder Kaur, is entitled for compensation towards loss of estate, love and affection due to death of her son, who was in prime of his youth.

5. Learned counsel for appellants has not pressed for grant of compensation for the loss of consortium for wife of the deceased as she has remarried after death of 'the deceased'.

6. Learned counsel for respondent no. 3-Insurance Company has argued that in grounds of appeal, claimants have not sought any compensation for addition in income of the deceased, as such, they are not entitled to any compensation on this score.

7. It is a settled proposition of law that claimants are entitled to just and reasonable amount of compensation even without pleading quantum

of compensation. They are not required to plead as to under which head

they are entitled to compensation. It is for the Tribunal/Court to see quantum of compensation to be awarded to them.

8. The deceased was 26 years of age and as per norms laid down by Apex Court in **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, multiplier for calculating amount of dependency applicable is 17 instead of 18 as applied by the Tribunal. As per observations of Apex Court in **Rajesh's case (supra)**, **Munna Lal Jain's case (supra)** and **Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476**, claimants are entitled to addition in income of the deceased towards future prospects, for the loss of love and affection care and guidance for minor child and also for loss of estate, love and affection for the mother. Applying the ratio of judgments in the above referred cases to the facts and circumstances of this case, amount of compensation to which claimants are entitled is reassessed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Age of Sukhvir Singh (deceased)	26 years
(ii)	Date of accident	26.12.2006
(iii)	Income of the deceased	₹10000 per month (as assessed by the Tribunal)
(iv)	50% of (iii) to be added towards future prospects	₹10000+₹5000 = ₹15000
(v)	1/3 rd of (iv) deducted as personal expenses of the deceased	₹15000-₹5000= ₹10000 per month
(vi)	Compensation after multiplier of 17 is applied	(₹10000X12X17) = ₹2040000
(vii)	Loss of consortium	₹50000
(viii)	Loss of love and affection care and guidance for children	₹50000
(ix)	Loss of estate, love and affection for mother	₹50000
(x)	Compensation for funeral expenses	₹25000
	<i>Total</i>	₹2215000

9. As a sequel of my above discussion, the appeal has merit and is accepted. Award of the Tribunal is modified and compensation allowed to claimants is enhanced from ₹14,50,000/- to ₹22,15,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. The enhanced amount of compensation shall be shared by claimants as follows:-

- (i) Smt. Harpinder Kaur (mother) = 15%
- (ii) Sahibpreet Singh (son) = 70%
- (iii) Smt. Ramandeep Kaur (wife) = 15%

10. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank accounts or pay the same through demand drafts. Counsel fee is assessed at ₹20,000/-.

July 21, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No