

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

(I) FAO-4667-2014 (O&M)
Date of decision: 03.03.2016

Smt. Darshna Devi and others

...Appellants

Versus

Manjit and others

...Respondents

(II) FAO-4668-2014 (O&M)

Smt. Darshna Devi and others

...Appellants

Versus

Manjit and others

...Respondents

(III) FAO-4669-2014 (O&M)

Khushboo (minor)

...Appellant

Versus

Manjit and others

...Respondents

(IV) FAO-4670-2014 (O&M)

Ravita Devi

...Appellant

Versus

Manjit and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Chand Ram Olla, Advocate,
for the appellants.

Mr. Paramjit Jakhar, Advocate,
for respondent No.1-Manjit.

Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

JITENDRA CHAUHAN, J.

Four appeals, as noticed above, are being disposed of by this single judgment, having arisen out of the common impugned Award dated 03.10.2013, passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal').

It is contended that the learned Tribunal erred in applying the ratio of law laid down in *Angrejo Devi Vs. Jai Parkash, 2013(2) R.C.R. (Civil) 161*, in view of second pillion rider being a child of three years. It is further contended that the amount of compensation awarded in all the appeals is inadequate and deserves to be enhanced.

On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the

present appeal.

I have heard the learned counsel for the parties and perused the record.

As far as the point of negligence is concerned, the learned Tribunal has held that the claimants have contributed to the accident as three persons were travelling on the motorcycle at the relevant time as against the seating capacity of two persons only. It was further held that the driver, Hawa Singh, must have faced difficulty in controlling the motorcycle due to extra load of third passenger. However, this Court feels that the ratio of law laid down in Angrejo's case (supra) is not applicable in the present context. It has come on record that the second pillion on the motorcycle was a child aged three years. This factual aspect of the matter is not controverted by the learned counsel for the respondents. As against this, three adults were travelling on one motorcycle in the cited case. Thus, this Court is of the considered opinion that the finding recorded by the learned Tribunal to the extent of contributory negligence is erroneous and is accordingly, set aside. The claimants in all the appeals shall be entitled to the entire amount of compensation assessed by the learned Tribunal.

As regards the quantum of compensation, in FAO No.4667 of 2014, the prayer is for enhancement of the amount

granted towards repair and damage of the vehicle. From the perusal of the record, it emerges that the claimants produced on bills Ex.P-2 to P-5, amounting to Rs.25,000/-. The amount so claimed has already been allowed to the appellants, therefore, no further enhancement is called for.

In FAO No.4668 of 2014, it is averred that the income of the deceased assessed at Rs.4,000/- per month, being less than the minimum wages deserved to be enhanced. This Court finds substance in the averment made and thus, assesses the monthly income of the deceased at Rs.4,847/- per month, which is equivalent to the minimum wages prescribed for an unskilled labourer during the relevant period. The multiplier of 11 and deduction to the extent of 1/3rd have been rightly applied. Furthermore, the amount of Rs.20,000/- awarded on account of loss of consortium is enhanced by another Rs.80,000/-, in view of the law laid down in ***Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54***. The compensation awarded under the other heads is just and reasonable and does not call for any interference.

In FAO No.4669 of 2014, minor child Khushboo suffered simple injuries in the accident as is evident from the MLR, Ex.P10. The learned Tribunal has awarded a lump sum amount of

Rs.10,000/-, on account of pain and mental agony undergone by her. However, keeping in view the tender age of the child, this Court feels that the ends of justice would be adequately met, in case, another amount of Rs.5,000/-, is awarded to the claimants. It is ordered accordingly.

In FAO No.4670 of 2014, injured-claimant Ravita Devi also suffered simple injuries, as reflected in the MLR, Ex.P11. She has been awarded an amount of Rs.10,000/-, by the learned Tribunal for pain and mental agony. This Court grants another amount of Rs.10,000/- to the claimant under this head.

Resultantly, FAO Nos.4667 to 4670 of 2014, are partly allowed and the impugned award is modified to the extent indicated above.

The enhanced amount of compensation, as indicated above, over and above the amount already awarded by the learned Tribunal, shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, the appellants shall also be entitled to interest @ 7.5% per annum, from the date of filing of the respective appeals, till its realization.

03.03.2016

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(JITENDRA CHAUHAN)

JUDGE

Note : Whether to be referred to Reporter : Yes / No.

ATUL SETHI
2016.04.04 17:03
I attest to the accuracy and
authenticity of this document
Chandigarh