

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5126 of 2014 (O&M)
Date of Decision : 29.09.2016

Neelam Devi and others

....Appellants

Versus

Jagmal Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. P.R. Yadav, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for Mr. Ravinder Arora, Advocate
for respondent no. 3.

Surinder Gupta, J.

Motor Accident Claims Tribunal, Gurgaon (later referred to as 'the Tribunal') awarded compensation of ₹14,41,340/- for death of Ram Dular Yadav (later referred to as 'the deceased'), aged 38 years, in a motor vehicle accident, which took place on 26.07.2012 with motorcycle bearing registration no. HR-26-BC-7675 (later referred to as 'the offending vehicle').

2. Claimants have filed this appeal seeking enhancement of compensation.

3. Learned counsel for appellants while seeking enhancement of compensation has confined his submissions for grant of compensation for the loss of love and affection care and guidance for minor children of the deceased and loss of estate, love and affection for parents of the deceased. Grant of compensation under other heads was not challenged.

4. The deceased was 38 years of age. The Tribunal took his

monthly salary as ₹6500/- and allowed 50% addition in his monthly income. Multiplier of 15 was applied while computing amount of dependency after making deduction of 1/4th from income of the deceased towards his personal expenses. Claimants were allowed ₹1 lac towards loss of consortium for wife of the deceased and ₹25000/- towards funeral expenses.

5. Learned counsel for respondent no. 3-Insurance Company has though submitted that compensation awarded by the Tribunal is just and reasonable keeping in view the fact that accident had taken place in the year 2012 but could not contest arguments of learned counsel for appellants that claimants are also entitled to compensation towards loss of love and affection, care and guidance for minor children and loss of estate, love and affection for parents.

6. The deceased had left behind two minor children. The law is no more *res integra* that minor children of the victim in a motor vehicle accident are entitled to compensation towards loss of love and affection care and guidance, which is quantified as ₹1 lac. Parents of the deceased are also allowed compensation of ₹1 lac towards loss of estate, love and affection.

7. As a sequel of my discussion above, this appeal has merit and is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Ram Dular Yadav is enhanced from ₹14,41,340/- to ₹16,41,340/-. 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-appellants in their bank accounts or pay the same through demand drafts. Amount of enhanced compensation shall be shared by claimants-appellants no. 1 to 5 as follows:-

- | | | | |
|------|----------------------------------|---|----------|
| (i) | Claimants no. 2 and 3 (children) | = | 50% each |
| (ii) | Claimants no. 4 & 5 (parents) | = | 50% each |

8. The share of claimants-appellants No. 2 and 3, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their names after the date of their attaining majority. The above direction has been issued to save claimants from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after attaining the age of majority. Claimant no. 1-Neelam Devi, being mother and natural guardian of minor claimants shall be entitled to get interest on the share of minors deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up.

9. In the event of demise of any of the claimants before or after passing of award, compensation of his/her share shall be paid to surviving claimants.

September 29, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No