

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 621 of 2015 (O&M)

Date of decision : May 30, 2016

Amarjit Singh and othersAppellants

Versus

Som Raj and another Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. M.S. Longia, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No. 2 - insurance company.

LISA GILL, J.

Present appeal has been preferred by the appellants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ropar (hereinafter referred to as the 'Tribunal') vide award dated 04.07.2014 on account of death of Piar Kaur due to a motor vehicle accident.

Claimants are the husband and sons of Piar Kaur. There is no dispute regarding Piar Kaur being involved in a motor vehicle accident occurring on 04.10.2013 at about 5.30 p.m., caused due to rash and negligent driving of motorcycle bearing registration No. HP-28-A-1706 by Som Raj. She admittedly received fatal injuries in the said accident. Smt. Piar Kaur was taken to Civil Hospital

Anandpur Sahib where she was declared dead. FIR No. 124 dated 05.10.2013 was registered in this respect.

Appellant-claimants preferred a claim petition under Section 166 of Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') claiming compensation to the tune of ₹15 lakhs alongwith interest at the rate of 18% on account of death of Piar Kaur, who was stated to be earning ₹10,000/- per month by stitching and tailoring work as well as running a diary. The claim was resisted by the respondents. Learned Tribunal framed the following issues on the basis of the pleadings of the parties:-

1. Whether the death of Piar Kaur occurred in a motor vehicular accident on 04.10.2013 at about 5.30 p.m. in the area of village Jindwri on Anandpur Sahib – Nangal road, due to rash and negligent driving of Motorcycle No. HP-28-A-1706 being driven by respondent No. 1? OPP
2. If issue no. 1 is proved, whether the claimants being the legal heirs of Piar Kaur are entitled to any compensation? If so from whom and what amount? OPP
3. Whether the respondent No. 1 was not holding any valid and effective driving licence on the date of alleged accident? OPR
4. Whether the claim petition is not maintainable? OPR
5. Whether the offending vehicle was not holding a valid RC and insurance at the time of accident? OPR
6. Relief.

Issue No. 1 was decided in favour of the claimants by the

learned Tribunal on consideration of the evidence on record and the facts and circumstances of the case and this finding is informed to have attained finality. A total sum of ₹6,03,000/- awarded to the claimants is detailed as hereunder:-

Loss of dependancy	₹ 5,88,000/-
Funeral expenses	₹ 10,000/-
Loss of estate	₹ 5,000/-
Total	₹ 6,03,000/-

Learned counsel for the appellant submits that deceased Smt. Piar Kaur was in fact earning a sum of ₹10,000/- per month from diary business, agricultural work and stitching, therefore, the income assessed as ₹3500/- per month by the learned Tribunal is incorrect. No compensation has been awarded on account of loss of consortium and loss of love and affection by the learned Tribunal. Thus, compensation awarded to the appellant should be enhanced.

The claim has, however, been refuted by the learned counsel for the respondent – insurance company, who urges that a reasonable amount of compensation has been assessed by the learned Tribunal, which calls for no interference.

I have heard learned counsel for the parties and gone through the file. It is not disputed that the deceased Piar Kaur was 44 years old at the time of accident. There is, however, no evidence on record to suggest that she was earning a sum of ₹10,000/- by running a diary or from agricultural work or stitching. However, it is undeniable that a home maker discharges duties which are

multifarious in nature. She would invariably be taking care of requirements of her husband as well as children including cooking of food, washing of clothes etc. apart from providing invaluable guidance to the children and necessary support to her husband. The value of gratuitous services rendered by the appellant cannot be less than ₹3,500/- as assessed by the learned Tribunal. Learned counsel for the appellant is, however, unable to point out any evidence on record for enhancement of the said amount. Therefore, notional income of ₹3,500/- per month as assessed by the learned Tribunal is maintained. Keeping in view the age of the deceased to be 44 years at the time of accident, multiplier of 14 has been correctly applied.

Thus, while maintaining the notional income to be ₹3500/- per month and not applying any deduction thereto, loss of dependancy is maintained at ₹5,88,000/- (3500x12x14). It is relevant to note that there is no challenge to the impugned award by the respondents. As held by the Hon'ble Supreme Court in **Rajesh and others versus Rajbir Singh and others** 2013 (3) RCR (Civil) 170, and various other pronouncements, spouse of the deceased is entitled to compensation on account of loss of consortium and children for loss of love and affection. Thus, the claimant-husband is entitled to ₹1,00,000/- on account of loss of consortium and the deceased's sons are entitled to ₹1,00,000/- each on account of loss of love and affection. ₹25,000/- is awarded on account of funeral expenses instead of ₹10,000/-. The claimants are entitled to a total compensation of ₹9,13,000/- as detailed hereunder:-

Loss of dependancy	₹5,88,000/-
Loss of consortium	₹1,00,000/-
Loss of love and affection ₹1,00,000/- each (two children)	₹2,00,000/-
Funeral expenses	₹25,000/-
Total	₹9,13,000/-

Amount of compensation already awarded to the appellant shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 6.5% per annum on the enhanced amount from the date of filing of the petition till realisation.

With the abovesaid modification in the amount of compensation, present appeal is partly allowed.

May 30, 2016
rts

(Lisa Gill)
Judge