

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

Sr. No.319

**FAO No.3953 of 2002
Date of decision : 11.08.2017**

Kanwar Bhan and others

..... Appellants

VERSUS

Pardeep Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Subhash Godara, Advocate for
Mr. S.S. Dinarpur, Advocate
for the appellants.

Mr. Ravinder Arora, Advocate
for respondent No.3-Insurance Company.

SUDHIR MITTAL, J. (Oral)

The present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Tribunal, Yamuna Nagar at Jagadhari vide order dated 22.02.2002.

The deceased was named, Gurnam Singh, who was the father-husband of the claimants. He met with an accident on 27.02.2000, while going on his motorcycle from his house to his farm. It is stated that he was driving at normal speed on the left side of the road and one Pala Ram was riding pillion. On reaching Dera of Surjan Singh on Pabni-Marwa road, the motorcycle was struck by a tractor bearing No.HNA-3778, which was being driven rashly and negligently by respondent No.1. As a result of this accident, Gurnam Singh (deceased) was crushed by the rear wheel of the tractor and died on the spot.

In the written statement filed on behalf of respondent No.1 and 2, it was stated that the accident took place due to negligence of the deceased. Respondent No.3 (Insurance Company) admitted in its written statement that the tractor bearing No.HNA-3778 was insured with it. However, the usual objections were taken apart from the objection that the driver of the tractor was not holding a valid driving licence.

The learned Tribunal held that the accident had taken place due to rash and negligent driving of respondent No.1 (driver of the tractor) and that the insurance company was liable to pay the compensation since the tractor was validly insured on the date of the accident. Accordingly, a compensation of ₹4,16,000/- was assessed as the compensation to be paid to the claimants.

So far as, the finding regarding the accident having been caused due to rash and negligent driving of respondent No.1 is concerned, no challenge has been laid thereto. In fact, none is present to represent either the driver or the owner. Thus, this finding is upheld and it is affirmed that the death of Gurnam Singh was caused due to rash and negligent driving of respondent No.1, which resulted in the accident. Regarding the issue of the driver of the tractor not holding a valid driving licence, no meaningful argument has been addressed by the learned counsel appearing for the insurance company and, therefore, the finding regarding liability of the insurance company is also upheld.

The only issue which arises for determination is whether the compensation assessed by the learned Tribunal below was just and adequate. Learned counsel for the appellants does not dispute the finding of the learned Tribunal that on the date of the accident deceased was aged 58 years.

He also does not dispute the finding regarding his annual income, which was ₹78,000/- per annum. The deceased was an agriculturist and his income has been determined on the basis of his land holdings. Since the deceased has left behind a widow and two sons a deduction of 1/3rd has to be made for the personal expenses of the deceased. Thus, the annual income is assessed @ ₹52,000/-. Relying upon **Sarla Verma Vs. Delhi Transport Corporation, 2009(3) RCR (Civil) 77**, a multiplier of '9' would be applicable in this case as against the multiplier of '8' applied by the learned Tribunal. Considering the fact that the deceased was an agriculturist and was aged 58 years on the date of accident, I do not deem it appropriate to award any compensation under the head of future prospects for the reasons that there was no likelihood of enhancement of the income of the deceased unless he purchased additional land in the future and there is no evidence on the record, which may suggest that even in the past the deceased had been increasing his land holding periodically. Moreover, the judgment in **Sarla Verma's case** (supra) also does not provide for future prospects in case the deceased was more than 58 years of age. Thus, viewed, I assess compensation as follows:-

(a)	Annual income	₹78,000/-
(b)	Deduction of 1/3 rd for personal expenses	₹26,000/-
(c)	Loss of dependency	₹52,000/- per annum
(d)	Total loss of dependency applying multiplier of 9	₹4,68,000/-
(e)	Loss of consortium	₹1,00,000/-
(f)	Funeral expenses	₹25,000/-

(g) Total compensation

₹5,93,000/-.

The appeal is allowed in the above terms. The unpaid compensation will carry an interest @ 7.5% per annum from the date of filing of the claim petition till the date of payment. The total compensation will be divided equally amongst all the claimants.

August 11, 2017
Ramandeep Singh

(SUDHIR MITTAL)
JUDGE

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No