IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.5004 of 2002
Date of Decision:- 25.08.2017

Smt. Sneh Lata and others ....Appellants
vs.
Ram Niwas and others ....Respondents

2. **F.A.O. No.4534 of 2002**

Balwan Singh ....Appellant
vs.
Ram Niwas and others ....Respondents

3. **F.A.O. No.4535 of 2002**

Raj Kumar ....Appellant
vs.
Ram Niwas and others ....Respondents

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CORAM:- HON'BLE MR. JUSTICE SUDHIR MITTAL

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Present:- Mr. Ashwani Bakshi, Advocate for the appellants.

Mr. Man Mohan, Advocate for respondents No.1 and 2.

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

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Sudhir Mittal, J.

FAO Nos. 5004, 4534 and 4535 of 2002 are being decided by this common judgment as they arise out of the same accident which took place on 24.10.2000 and involve common questions of facts and law.

2. The deceased, Anil Kumar, was going from Meham to Delhi on 24.10.2000 in a Maruti Van bearing registration No.HR-15-3422 being driven by Balwan Singh. Raj Kumar was also accompanying them. When they reached near the premises of Surya Bulbs, Bahadurgarh, they saw a

Tata Sumo vehicle bearing registration No. DL-2C/G-9894 parked on the left side with its indicators on and waiting to enter the premises of Surya Bulbs. A truck bearing registration No. HR-39-7877 came from the opposite direction and was being driven rashly and negligently. It hit the stationary Tata Sumo and then dashed against the Maruti Van. As a result of this accident, Anil Kumar succumbed to his injuries while Balwan Singh and Raj Kumar sustained injuries.

3. The Learned Motor Accidents Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') found, on appreciation of evidence, that the accident took place on account of the rash and negligent driving of the driver of the truck and that the said truck was validly insured with respondent No.3-National Insurance Company Limited, Rohtak, and its driver possessed a valid driving licence. The liability to make the payment of compensation was imposed on respondents No.1 to 3 jointly and severally.

4. Three different claim petitions were filed, one each by the two injured and one by the dependents of the deceased Anil Kumar. All three cases were decided by a common award. Hence, three appeals have been filed.

5. Since the deceased and the injured were doing different jobs, having different incomes and were of different age, I deem it appropriate to deal with the quantum of compensation awardable in each case separately.

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6. As regards compensation in the death case of Anil Kumar, it is not in dispute that the deceased-Anil Kumar was running a grocery shop in

the main market of Meham. The said shop has been in existence since 1949 as has been proved by Taxation Inspector, who appeared as PW-8. It is also not in dispute that deceased Anil Kumar was aged 36 years on the date of the accident and that his widow and two minor children were his dependents. It is further not in dispute that according to the Income Tax Return filed for the year 1999-2000, the annual income of the deceased shown was ₹ 51,000/-. Learned counsel for the appellants places reliance on the Income Tax Return for the year 2000-2001, in which the annual income has been reflected as ₹ 75,000/-. However, the same cannot be taken into consideration as the said Return was filed on 13.2.2001 i.e. four months after the date of the accident and there is likelihood of inflation of the earnings of the deceased. The claimants could have also produced the accounts of the grocery shop if they wanted to establish that the deceased was earning more than what was reflected in the Income Tax Return of the year 1999-2000, but, no such evidence is forthcoming.

7. Keeping in view the parameters referred to hereinbefore and in view of the decision of Hon'ble the Supreme Court in "**Munna Lal Jain and another vs. Vipin Kumar and others" 2015 (6) SCC 347,** I proceed to determine the compensation, payable to the claimants, as follows:-

1.	Annual income	₹ 51,000/-
2.	Increase of 50% in income on account of future prospects	₹ 76,500/- (₹51000+25500/-)
3.	Deduction of 1/3rd on account of personal expenses (father was earning and mother was dependent on the father)	₹ 51,000/- (₹76500-25500/-)
4.	Annual dependency applying multiplier of 15 as deceased was 36 years of age	₹ 7,65,000/- (₹ 51000x15)
5.	Loss of consortium	₹ 1,00,000/-

6.	Loss of love and affection	₹ 1,00,000/-
7.	Funeral expenses	₹ 25,000/-
8.	Total compensation	₹ 9,90,000/-

8. The unpaid amount shall carry interest @ of 7.5% per annum from the date of claim petition till the date of payment. Respondent No.3-National Insurance Company, is directed to make the payment due within a period of three months from the date of receipt of certified copy of the judgment.

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9. So far as compensation in respect of Injured Balwan Singh and Raj Kumar is concerned, learned counsel for the appellants, has not been able to point out any misreading of evidence or any evidence which may have not been considered by the learned Tribunal while computing compensation in respect of these claimants. Therefore, the quantum of compensation awarded to them by the learned Tribunal is upheld.

10. Accordingly, FAO No. 5004 of 2002 titled as "**Smt. Sneh Lata and others vs. Ram Niwas and others"** is allowed and FAO Nos.4534 and 4535 of 2005 titled as "**Balwan Singh vs. Ram Niwas and others" and "Raj Kumar vs. Ram Niwas and others",** respectively are dismissed.

August 25, 2017 **(SUDHIR MITTAL)**
poonam **JUDGE**

Whether Speaking/Reasoned **Yes**

Whether Reportable **Yes**