

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

FAO No.1026 of 2005

Date of decision : 10.03.2017

Harjit Kaur and others

.....Appellants

Versus

The Jalandhar Transport Co-op Society Ltd. & Ors.

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Ms. Amanpreet Kaur, Advocate for
Mr. H.S. Gill, Advocate for appellants.

Mr. H.S. Deol, Advocate for respondent No.1.

Mr. Suveer Dewan, Advocate for respondent No.4-
Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 02.11.2004, passed by learned Motor Accidents Claims Tribunal, Sangrur (hereinafter called the “Tribunal”), whereby in the claim petition filed by the appellants-claimants under Section 166 of the Motor Vehicles Act, 1988 (for short – the “Act”) the appellants-claimants have been awarded compensation to the tune of ₹5,46,000/- on account of death of Harpal Singh in the motor vehicular accident which took place on 18.04.2003.

2. The present appeal has been preferred by the appellants-

claimants for enhancement of award of compensation.

3. I have heard learned counsel for the parties and have gone through the paper-book carefully.

4. Initiating the arguments, learned counsel for the appellants-claimants contended that the deceased was a driver by profession, so he was a skilled person but the learned Tribunal has not awarded any future prospects towards the income of the deceased. She further contended that the learned Tribunal has not awarded adequate amount of compensation towards the conventional heads. No amount has been awarded to the minor daughter and the mother of the deceased towards loss of love and affection. Thus, he contended that the amount of compensation awarded by the learned Tribunal is highly inadequate.

5. On the other hand, learned counsel for respondents No.1 and 4 contended that the learned Tribunal has rightly determined the amount of compensation taking into consideration the income of the deceased and his other particulars and there is no scope for any further enhancement.

6. I have duly considered the aforesaid contentions.

7. It is an admitted fact that deceased Harpal Singh was the driver by profession. Even at the time of the accident he was driving bus bearing registration No.PB-03-H-4065 *en route* from Jalandhar to Patiala. The learned Tribunal has determined the income of the deceased to be ₹6000/- per month. No fault can be found with the income of the deceased so determined by the learned Tribunal. However, the learned Tribunal has not awarded any future prospects towards the income of the deceased. The

deceased was a skilled person being the driver of a transport vehicle, so his income was bound to increase with the passage of time. The learned Tribunal has determined the age of deceased Harpal Singh to be 45 years at the time of his death. So, 30% of his income shall be added towards the future prospects. Thus, the monthly income of the deceased comes to ₹7800/- i.e. ₹93,600/- per annum. $\frac{1}{3}^{\text{rd}}$ of the aforesaid amount shall be deducted towards his personal and living expenses. The remainder comes to ₹62,400/-. Keeping in view the age of the deceased, the multiplier of 14 shall be applicable. Thus, the compensation on account of loss of dependency comes to ₹8,73,600/-. In addition to that, appellant-claimant No.1 Harjit Kaur the widow of deceased Harpal Singh shall be entitled to ₹1,00,000/- towards loss of consortium. Appellant No.2 Rimpi minor daughter of the deceased shall also be entitled to ₹1,00,000/- towards loss of love, care and guidance of her father. Appellant No.3 Gurdev Kaur the mother of the deceased shall also be entitled to a sum of ₹1,00,000/- towards loss of love and affection of her son. The appellants-claimants shall also be entitled to ₹25,000/- towards the funeral and last rites expenses. Thus, the total amount of compensation payable to the appellants-claimants comes to ₹11,98,600/-.

8. The appellants-claimants have claimed the compensation to the tune of ₹7,00,000/- for the death of Harpal Singh in the present motor vehicular accident in their claim petition, but the law is well settled that it is the duty of the Tribunal to award just compensation. There is no restriction on the Court that it can only award the amount of compensation claimed by

the claimants in the claim petition. If on computation of the amount of compensation as per law, the just and appropriate compensation comes to more than the amount claimed by the claimant, the same can certainly be awarded. Three Judges Bench of Hon'ble Apex Court in case ***Nagappa Vs. Gurudayal Singh AIR 2003 SC 674***, has laid down that it is the duty of the Tribunal to award just and appropriate compensation. There is no restriction that it can award only up to the amount claimed by the claimants. In case ***Ibrahim Vs. Raju and others 2011(4) RCR (Civil) 863***, again the Hon'ble Apex Court has laid down that Tribunal can award compensation more than what was claimed by the claimant. In that case the claimants had claimed the compensation to the tune of ₹3,00,000/-, the Hon'ble Supreme Court has enhanced the amount of compensation to the tune of ₹6,00,000/-. Again in case ***Sanobanu Nazirbhai Mirza and others Vs. Ahmedabad Municipal Transport Service 2013(4) RCR (Civil) 732***, the same legal position has been reiterated that Tribunal/Court can award compensation more than that claimed by the claimants.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to the appellants-claimants is enhanced to ₹11,98,600/- from ₹5,46,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation and the apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the

main award.

10.03.2017

sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No