

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.882 of 2005 (O&M)

Date of decision:- March 28, 2017

BALDEV SINGH AND ANOTHER

....APPELLANTS..

VS.

PIARE LAL AND ANOTHER

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. V.B. Aggarwal, Advocate,
for the appellants.

Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate,
for respondent No.1.

Mr. Vipul Sharma, Advocate for
Mr. B.S. Tanque, Advocate,
for respondent No.2.

JASPAL SINGH, J.

CM-3522-CII-2005

Delay of 16 days in filing the appeal is condoned.

CM stands disposed of.

Main case

Feeling aggrieved against the award dated 21.09.2004, passed by Motor Accident Claims Tribunal, Kurukshetra (for short, "Tribunal") in MACT No.79 of 2003, captioned as "*Baldev Singh and another vs. Piare Lal and another*" under the provisions of Motor Vehicles Act, 1988 (for brevity, "the Act"), whereby the claimants (parents of deceased) were

awarded compensation to the tune of ₹1,45,200/-, on account of death of Satbir Singh @ Satvinder Singh in a vehicular accident occurred on 17.06.2003, in the area of Police Station Bilaspur, appellants have preferred the instant appeal for enhancement thereof.

2. Concededly, the monthly income of the deceased was assessed as ₹2100/- by Id. Tribunal and the appellants-claimants were granted the compensation to the tune of ₹1,45,200/-. After deduction, the annual dependency for first segment came to $₹2100 \times 2/3 \times 12 = ₹16,800 \times 4 = ₹67,200/-$ and for second segment, the dependency came to $₹500 \times 12 \times 12 = ₹72,000/-$. In addition to it, a sum of ₹6000/- has also been awarded on account of funeral expenses and transportation. Thus, it is evident that nothing has been awarded on account of future prospects and loss of love and affection whereas the amount of compensation awarded on account of funeral expenses is unjust and inadequate, especially, in view of the guidelines laid down by Hon'ble Apex Court in case captioned as ***“Smt. Sarla Verma and others vs. Delhi Transport Corporation and another” 2009(3) RCR (Civil) 77*** which has subsequently been approved in case captioned as ***“Rajesh vs. Rajbir 2013 (3) RCR (Civil) 170***. As per the guidelines, the appellants-claimants are also entitled for compensation on account of future prospect and loss of love and affection. In view of the age of the deceased i.e. 22 years, 50% of the income i.e. ₹1050/- p.m. is to be added as future prospects, thus, it comes to ₹3150/-(2100+1050).

3. Id. Tribunal has made deduction of 1/3rd for first 4 years and remaining for 12 years which is not proper as per law laid down in ***Sarla Verma's case (supra)***, in which it is held that where the number of

dependent family members is 2 to 3, deduction should be $1/3^{\text{rd}}$. Thus, after deducting $1/3^{\text{rd}}$ i.e. ₹1050/- as personal expenses, the dependency of the claimants comes to ₹2100/- per month.

4. Id. Tribunal has adopted the multiplier of 12 by considering the age of the claimants, but in view of the judgment captioned as “*Munna Lal Jain and another v. Vipin Kumar Sharma and others*;2015(3) SCC (Civil) 315, multiplier is to be applied with reference to the age of the deceased and not the age of dependents of deceased. As the age of the deceased was 22 years, multiplier of 18 should have been applied. Thus, total amount of compensation on account of dependency comes to ₹4,53,600/- ($2100 \times 12 \times 16$). Similarly, the appellants-claimants are also entitled for a sum of ₹1,00,000/- on account of loss of love and affection, ₹19,000/- towards funeral expenses in addition to the amount of ₹6000/- already awarded by the Id. Tribunal (totalling ₹25,000/-). Thus, the total amount works out to ₹5,78,600/- to which, the claimants are entitled on account of death of Sucha Singh. As such, the appellants-claimants shall be entitled to enhanced compensation to the tune of ₹4,33,400/- i.e. an amount in addition to the compensation of ₹1,45,200/- already awarded by the Tribunal.

5. In the light of what has been discussed above, the appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹4,33,400/- in addition to the compensation already awarded. Respondents No. 1 and 2 are directed to pay the amount so enhanced within a period of two months from the date of receipt of certified copy of this order and on its failure to make the payment within stipulated period, it

would entail interest @ ₹9% per annum from the date of filing of the clam petition before the Tribunal till its realization.

6. Parties to bear their own cost.

March 28, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned:	Yes
Whether reportable:	Yes/No