

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

FAO No.1283 of 2010

Date of decision:- April 24, 2017

SATYA DEVI AND OTHERS

....APPELLANTS..

VS.

BALJIT SINGH AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. R.D. Sharma, Advocate,
for the appellants.

None for respondent No.1.

Mr. Pardeep Kumar, Advocate,
for respondent No.3.

JASPAL SINGH, J.

Aggrieved against the inadequacy of compensation awarded vide award dated 25.02.2009 passed by Motor Accident Claims Tribunal (Adhoc) Fast Track Court, Gurdaspur, (for brevity, "Tribunal" only) on account of death of Balbir Chand @ Rana in a vehicular accident occurred on 03.10.2006 near village Kotli Tehsil Pathankot, due to rash and negligent driving of Truck No.RJ-07G-8335 by its driver Baljit Singh-respondent No.1, appellants-claimants have preferred the instant appeal.

2. Assailing the impugned award dated 25.02.2009, it has been argued by learned counsel for the appellants that ld. Tribunal has assessed the income of the deceased only to the tune of ₹3000/- whereas, he was earning ₹4500/- per month. However, ld. Tribunal has applied a multiplier

of 16 only whereas multiplier of 20 should have been applied keeping in view the age of the deceased, who was 30 years of age at the time of his unfortunate demise. It has further contended by learned counsel for the appellants that Id. Tribunal has wrongly deducted 1/3rd income. Moreover, nothing has been awarded on account of future prospect and loss of love and affection, loss of consortium whereas a sum of ₹5000/- has been awarded on account of funeral expenses, which is unjust and inadequate. Further, a sum of ₹72,000/- has also been awarded on account of medical expenses.

4. On the other hand, learned counsel for the respondents have supported the impugned award dated 25.02.2009 and has submitted that just and adequate compensation has already been awarded by the Id. Tribunal. There is no illegality and infirmity in the impugned award. Thus, appeal being devoid of merit is liable to be dismissed, that too, with special costs.

5. After bestowing due consideration to the rival submissions made by learned counsel for the parties, appraisal of evidence and scanning the impugned award dated 25.02.2009, this Court finds legal and factual substance in the various submissions made by learned counsel for the appellants.

6. Undisputably, the income of the deceased has been assessed to the tune of ₹3000/- per month, who was aged about 30 years at the time of accident. Since, there is no documentary evidence in support of the income being earned by the deceased, the assessment of his income to the tune of ₹3000/- is legally and factually justified. Since, deceased was aged about 30 years, at the time of his demise, multiplier of 17 should have been applied instead of 16, as per ***“Smt. Sarla Verma and others v. Delhi Transport***

Corporation and another” 2009(3) RCR (Civil) 77. Similarly, deduction towards personal and living expenses of the deceased, should be $\frac{1}{4}^{\text{th}}$ where the number of dependent family members is 4 to 6. Thus, total amount of compensation on account of loss of income comes to ₹4,59,000/- ($2250 \times 12 \times 17$) after deducting ₹750 ($\frac{1}{4}^{\text{th}}$) out of the income of the deceased i.e. ₹3000/- p.m.

7. Here, it would also be pertinent to mention that neither any compensation has been awarded by Id. Tribunal on account of loss of love and affection nor on account of loss of consortium whereas the amount of compensation awarded in lump sum is unjust and inadequate, especially, in view of the guidelines laid down in **Sarla Verma's case (supra)**, 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 entitled for compensation of ₹1,00,000/- on account of loss of love and affection, ₹1,00,000/- on account of loss of consortium and further to the tune of ₹20,000/- more on account of funeral expenses as Rs.5000/- has already awarded by Id. Tribunal. Thus, the total amount works out to ₹6,84,000/-, to which the appellants-claimants are entitled on account of death of Balbir Chand @ Rana. As such, appellants-claimants are entitled to enhanced compensation to the tune of ₹2,23,000/- as against the compensation of ₹4,61,000/- already awarded by the Id. Tribunal.

8. As far as awarding of compensation on account of future prospect is concerned, the matter in this regard is pending before the larger Bench of the Hon'ble Apex Court and it would not be desirable to award future prospects, especially when the deceased was treated as casual labourer. However, it can be safely concluded that the compensation

awarded by the 1d. Tribunal is neither just nor adequate.

8. As a sequel of the aforesaid discussion, appeal is partly allowed. Appellants-claimants shall be entitled to enhanced amount of ₹2,23,000/- 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 claim petition before the Tribunal till its realization. Parties to bear their own cost.

April 24, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No