

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

**FAO No. 5258 of 2012 (O&M)
Date of Decision: December 15, 2017**

Surinder Pal Singh and ors.

...Appellant

Versus

Dalip Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Anil Kumar Garg, Advocate
for the appellant.

Mr. Lalit Kumar Garg, Advocate
for respondent no.3.

ANITA CHAUDHRY, J.

This is the claimants' appeal seeking enhancement in the award dated 18.07.2012, passed by the Motor Accident Claims Tribunal, Sangrur (here-in-after referred to as the Tribunal).

Gurnam Singh aged 68 years met with an accident on 09.05.2010. He was stated to be an agriculturist and was running a dairy farm. He was discharged from the hospital initially on 24.06.2010 but he was again admitted on 18.07.2010 and died on 02.08.2010 in the hospital. The cause of death disclosed in the records was Cardio Respiratory Arrest. The brief summary prepared by the Medical Officers in Ex. C1 reads as under:-

“Pt. was admitted in ICU on 18.07.2010 with gen. Weakness not taking orally, bed sores. Patient is follow up case of RSA with Head Injury with C-Spine Injury with CRF and was under treatment in DMC and hospital, Ludhiana from 09.05.2010 to 23.06.2010. R/T feed started. Patient was managed with IV antibiotics daily ASDS and with other supportive treatment. Patient had cardio Respiratory arrest on 02.08.2010 and he was declared dead at 2 pm.”

The Tribunal recorded a finding that there was no nexus between the accident and the death and allowed Rs. 5,06,000/-, which was the amount spent on the treatment and purchase of medicines.

The submission on behalf of the appellants is that the accident had occurred in May and Gurnam Singh had died on 2nd of August the same year and he had been hospitalized in July though his first discharge was a fortnight earlier and perusal of discharge summary from Dayanand Medical College, Ludhiana which is a reputed hospital, it would be seen that his condition was not normal and the Medical Officers had recorded that in case there was vomiting or seizure then he had to be admitted in emergency. The counsel submits that the discharge card records the bed sores and he was feeble and Tribunal was wrong in rejecting their prayer for compensation for the death. It was urged that the income be assessed and the compensation be awarded for the death

and amount for the miscellaneous heads, transportation and attendant charges be allowed. The counsel submits that the deceased had remained in the hospital for over a month.

The submission on the other hand is that the claimants had failed to prove that the death was on account of the injuries suffered in the accident and the death is on account of cardio respiratory arrest and not on account of injuries and the claimants could not prove any nexus between the accident and the death and were not entitled to any enhancement.

It is not in dispute that Gurnam Singh had met with an accident on 09.05.2010. He was admitted in Dayanand Medical College, Ludhiana and was discharged on 18.07.2010. He had sustained injuries on his spinal cord and head. Even at the time of discharge from the hospital the doctors had noted his condition and the patient was to report back in the emergency ward in case there was seizure or vomiting. The claimants had produced bills and the test reports while the patient was admitted in the hospital. After his discharge on 24.06.2010, he was again admitted but in Hind Hospital on 18.07.2010 and the Medical Officers had reported that there was a cardio respiratory arrest on 02.08.2010.

The compensation for the death has been denied to the claimants as the Tribunal observed that the death was on account of heart attack. The respondents before the Tribunal had also taken a plea that it was a natural death on account of old age and on the same lines the respondents have made their submissions here but I am unable to agree

with the submissions. There is no record which shows that the patient had any heart problem earlier. He was admitted on account of injury on the head and spinal cord and remained on bed for one and a half month initially. He had bed sores and this is an indication that his condition was not good and since he was bed ridden, there were bound to be complications. He returned to the hospital again after a fortnight and died 20 days later. The death had had taken place on account of injuries. Gurnam could not recover after he was injured in the accident. The death has a direct connect to the accident and the claimants were entitled to compensation for his death.

Gurnam Singh was 68 years old. The claimants were the widow and the major sons. Since the sons were major, only the widow was entitled to compensation. The claimants had pleaded that the deceased was running a dairy farm and had agricultural income but could not lead any evidence. I would take the minimum wages and take it as a basis for calculating the compensation. The widow alone would be the dependent. The minimum wages stood at Rs.3,500/- in Punjab in that year, therefore, the income would be taken as Rs.3,500/- per month and making a deduction of 1/2, the compensation would be Rs.1,750 x 12 x 5 = Rs.1,05,000/-. To this, a sum of Rs.25,000/- would be added as loss of consortium, Rs.10,000/- for loss of estate, Rs.10,000/- for funeral expenses and Rs.10,000/- for transportation. I would also add Rs.9,000/- for the attendant @ Rs.3,000/- per month.

The appeal is partly allowed. Appellant no.4 alone is entitled to the additional amount of Rs.1,69,000/- with interest @ 6% from the date of filing of appeal till realization. It would be paid as directed by the Tribunal.

December 15, 2017

sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No