

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2588 of 2013 (O&M)
DECIDED ON: March 20, 2017

BALJINDER KAUR AND ANOTHER

.....APPELLANTS...

VERSUS

AMRIK SINGH AND OTHERS

....RESPONDENTS...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. P.S. Dhaliwal, Advocate
for the appellants.

Mr. N.K. Manchanda, Advocate,
for respondents No. 1 to 4.

Mr. Harsh Aggarwal, Advocate,
for respondent No.5.

JASPAL SINGH, J.

CM-11984-11985-CII-2013

For the reasons mentioned in these applications, delay of 158 days
in filing and 409 days in re-filing the appeal is condoned.

CMs stand disposed of.

Main case

Aggrieved against the inadequacy of the compensation awarded by
Motor Accident Claims Tribunal, Barnala vide award dated 27.04.2011 on
account of death of their minor daughter Purneet Kaur, in a vehicular accident
occurred on 15.05.2010, the appellants-claimants have approached this Court by

way of instant appeal.

2. The appellants are the parents of deceased-Purneet Kaur, who died in a road side accident occurred on 15.05.2010, on account of rash and negligent driving of bus bearing Registration No.PB-03T-4935 by its driver Surinder Singh. As a result of the accident, appellants-claimants received multiple injuries whereas, Purneet Kaur succumbed to her injuries at the spot. FIR No. 66, dated 16.05.2010, under Sections 304-A, 279, 337, 338 and 427 IPC was registered at Police Station Tapa against respondent No.1 and after completion of the investigation, he has been challaned by the police for his rash and negligent act. The bus involved in the accident, in which, Purneet Kaur lost her life, was duly insured with respondent No.5-Insurance Company.

3. Upon notice of the claim petition, it was resisted by the driver, owner as well as by the insurance company by taking different plea and ultimately, on analysis of the entire evidence and after hearing learned counsel for the parties, the Tribunal awarded compensation to the tune of ₹2,25,000/- along with interest @ ₹6% per annum to the claimants in equal shares from the date of filing of the claim petition till the date of realization.

4. Dissatisfied with the quantum of compensation awarded by the 1d. Tribunal, the appellants have filed the instant appeal.

5. While assailing the impugned award dated 27.04.2011, it has been argued with vehemence by learned counsel for the appellants that deceased-Purneet Kaur was minor at the time of accident and she was the only child of the appellants-claimants and on account of her death in the accident, they suffered huge loss. Her future prospects were very bright. The Tribunal has only awarded a sum of ₹2,25,000/-. Even, the 1d. Tribunal has not adhered to the

various guidelines highlighted in cases *“Sarla Verma v. Delhi Transport Corporation”, 2009(3) RCR (Civil) 77*, *“Kerala SRTC v. Susamma Thomas”, (1994) 2 SCC 176*, *“Municipal Council of Delhi v. Association of Victims of Uphaar Tragedy”, 2012 (3) RCR (Civil) 203* as well as *“Kishan Gopal and another v. Lala and others”, 2013(4) RCR (Civil) 276*.

6. It has further been submitted by learned counsel for the appellants that claimants/appellants are entitled to the compensation to the tune of ₹5 lacs as has been observed in the above referred judgments.

7. On the other hand, learned counsel for the respondents have supported the impugned award dated 27.04.2011 and has submitted that just and adequate compensation has already been awarded by the Id. Tribunal. There is no illegality and infirmity in the award. Thus, appeal being devoid of merits is liable to be dismissed, that too, with special costs.

8. After bestowing due consideration to the rival submissions made by learned counsel for the parties and appraisal of records available, this Court finds force in the submissions made by learned counsel for the appellants for enhancement of compensation awarded by the Id. tribunal.

9. In *Kishan Gopal's* case (supra), the deceased was 10 years of age, who was assisting the appellants in their agricultural occupation and the claimants in that case were awarded an amount of ₹5 lacs as compensation. It would be appropriate to reproduce the relevant portion of the aforesaid judgment, which reads as under:-

“We have also considered the fact that the rupee value has come down drastically from the year 1994, when the notional income of the non- earning member prior to the date of accident was fixed at Rs.15,000/-.

Further, the deceased boy, had he been alive would have certainly contributed substantially to the family of the appellants by working hard. In view of the aforesaid reasons, it would be just and reasonable for us to take his notional income at ₹30,000/- and further taking the young age of the parents, namely the mother who was about 36 years old, at the time of accident, by applying the legal principles laid down in the case of [Sarla Verma v. Delhi Transport Corporation, 2009\(3\) RCR 9Civil\) 77:2009 \(3\) Recent Apex Judgments \(RAJ\) 373: \(2009\) 6 SCC 121](#), the multiplier of 15 can be applied to the multiplicand. Thus, $30,000 \times 15 = 4,50,000$ and 50,000/- under conventional heads towards loss of love and affection, funeral expenses, last rites as held in [Kerala SRTC v. Susamma Thomas, \(1994\) 2 SCC 176](#), which is referred to in Lata Wadhwa's case and the said amount under the conventional heads is awarded even in relation to the death of children between 10 to 15 years old. In this case also we award ₹50,000/- under conventional heads. In our view, for the aforesaid reasons the said amount would be fair, just and reasonable compensation to be awarded in favour of the appellants. The said amount will carry interest at the rate of 9% p.a. by applying the law laid down in the case of [Municipal Council of Delhi v. Association of Victims of Uphaar Tragedy, 2012 \(3\) RCR \(Civil\) 203: 2012 \(3\) Recent Apex Judgments \(RAJ\) 92: \(2011\) 14 SCC 481](#), for the reason that the Insurance Company has been contesting the claim of the appellants from 1992-2013 without settling their legitimate claim for nearly about 21 years, if the Insurance Company had awarded and paid just and reasonable compensation to the appellants the same could have been either invested or kept in the fixed deposit, then the amount could have earned five times more than what is awarded today in this appeal. Therefore, awarding 9% interest on

the compensation awarded in favour of the appellants is legally justified.”

10. Adverting to the facts and circumstances of the case in hand, deceased-Purneet Kaur minor at the time of her death in a vehicular accident and her case is fully covered within the four corners of the above referred judgment(s). Thus, appellants also deserve the enhancement of the compensation. The compensation awarded by the Id. Tribunal to the tune of ₹2,25,000/- cannot be termed to be just and adequate. Rather, it is on lower side.

11. In the light of what has been discussed above, the instant appeal is partly allowed and the amount of compensation stands enhanced to ₹5 lacs, which shall be shared equally by the appellants and shall be payable by respondent No.2-Insurance Company 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 @ ₹6% as awarded by the Id. Tribunal, from the date of filing of claim petition till actual realization.

12. No order as to costs.

March 20, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No