

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

FAO No.2589 of 2013 (O&M)

Date of decision:- April 25, 2017

**SARABJIT KAUR AND
LR'S OF BHOLA SINGH**

....APPELLANT(S)..

VS.

AMRIK SINGH AND OTHERS

....RESPONDENTS..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. P.S. Dhaliwal, Advocate,
for the appellant.

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

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

JASPAL SINGH, J.

CM-11986-CII-2013

For the reasons mentioned in the application, delay of 409 days
in re-filing the appeal is condoned.

CM stands disposed of.

CM-11987-CII-2013

For the reasons mentioned in the application, delay of 174 days
in filing the appeal is condoned.

CM stands disposed of.

Main case

Aggrieved against the inadequacy of compensation awarded

vide award dated 27.04.2011 passed by Motor Accident Claims Tribunal, Barnala (for brevity, "Tribunal" only) on account of death of Surinder Singh, aged about 20 years, in a vehicular accident occurred on 15.05.2010, due to rash and negligent driving of Bus No.PB-03T-4935 by its driver Amrik Singh-respondent No.1, appellant-claimant has preferred the instant appeal.

2. Assailing the impugned award dated 27.04.2011, it has been argued by learned counsel for the appellant(s) that ld. Tribunal has assessed the income of the deceased only to the tune of ₹4000/- per month. Multiplier of 15 has been applied whereas multiplier of 25 should have been applied keeping in view the age of the deceased, who was 20 years of age at the time of his unfortunate demise.

3. It has further been urged by learned counsel for the appellant that only a sum of ₹5000/- has been awarded on account of funeral expenses and nothing has been awarded on account of loss of love and affection and future prospects. Thus, compensation awarded is neither just nor adequate on the face of it. As such, impugned award deserves to be modified.

4. 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 ld. 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 27.04.2011, this Court finds legal and factual substance in the various submissions made by learned counsel for the

appellants.

6. Undisputably, income of the deceased has been assessed to the tune of ₹4000/- per month, who was aged about 20 years at the time of his death in accident. Since, there is no documentary evidence in support of the income being earned by the deceased, assessment of his income to the tune of ₹4000/- is legally and factually justified. Ld. Tribunal has rightly deducted 1/2 of his income while determining dependency on account of the fact that he would have incurred half of the income towards maintaining himself had he been alive. Multiplier of 15 has been adopted by the Tribunal by considering the age of the claimant, 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/parents of deceased. Thus, in view of the age of the deceased, multiplier of 16 should have been applied. As such, total amount of compensation on account of loss of income comes to ₹3,84,000/-(2000x12x16).

7. As far as the contention of learned counsel for the appellant regarding 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 only a casual labourer. However, it can be safely concluded that the compensation awarded by the Ld. Tribunal is neither just nor adequate.

8. Undisputably, only a sum of ₹5000/- has been awarded on account of funeral expenses whereas nothing has been awarded on account of loss of love and affection. The appellants/claimants are entitled to the compensation under the aforesaid heads in view of the guidelines laid down

in “*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 being the mother and legal representatives of Bhola Singh deceased are entitled to compensation to the tune of ₹1,00,000/- on account of loss of love and affection and further entitled to a sum of ₹20,000/- more on account of funeral expenses. Thus, total amount works out to ₹5,04,000/-, to which, the appellant-claimant is entitled on account of death of Surinder Singh. As such, appellant-claimant is entitled to enhanced compensation to the tune of ₹1,39,000/- in addition to the compensation of ₹3,65,000/- already awarded by the Id. Tribunal vide impugned award dated 27.04.2011.

8. As a sequel of the aforesaid discussion, appeal is partly allowed. Appellant-claimant shall be entitled to enhanced amount of ₹1,39,000/- in addition to the compensation already awarded. Respondents No. 1 to 5 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 @ ₹6% per annum from the date of filing of the claim petition before the Tribunal till its realization.

10 Parties to bear their own cost.

April 25, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No