

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2736 of 2013

Date of Decision: 25.07.2017

Bhagwanti

.....Appellant

Vs

Ramesh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. M.S. Rana, Advocate
for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J.(Oral)

[1]. Accident took place on 30.01.2009, in which Bhupinder Singh son of the appellant received serious injuries. Bhupinder Singh was standing in front of a shop after parking his bicycle on one side. At 12.00 noon, the offending vehicle came from Mata Darwaja side in a rash and negligent manner and hit Bhupinder Singh, thereby causing serious injuries at his back. The offending vehicle was being driven by Ramesh, who after stopping the vehicle for a while escaped from the spot. The then injured Bhupinder Singh was hospitalized by his father and one Shankar.

[2]. Earlier petition was filed by Bhupinder Singh for the injuries suffered by him in the aforesaid vehicular accident. Motor Accident Claims Tribunal, Rohtak (for short 'the Tribunal')

vide award dated 07.12.2010, awarded an amount of Rs.3,48,000/- as compensation on account of injuries suffered by Bhupinder Singh.

[3]. Bhupinder Singh became 100% disabled on account of injuries to his backbone. He was hospitalized again on 06.01.2011 and ultimately died.

[4]. The findings have been recorded by the Tribunal that the death of Bhupinder Singh was on account of injuries suffered by him in the vehicular accident.

[5]. The second claim petition was filed by the appellant-mother of the deceased Bhupinder Singh under Section 163-A of Motor Vehicles Act.

[6]. After hearing learned counsel for the parties, I am of the view that by ignoring both the claim petitions, an assessment can be made in respect of payable compensation to the appellant-mother on account of death of Bhupinder Singh. As per claim petition earlier filed, the age of Bhupinder Singh was shown to be 18 years at the time of accident. He was pleaded to be a casual labourer in a shop against an income of Rs.3000/- per month. He was unmarried. Keeping in view the status of Bhupinder Singh to be of a casual labourer, his income could be presumed to be Rs.3000/- per month. An amount of Rs.1500/- was to be deducted towards self expenses and therefore, Rs.18000/- could be calculated as annual

dependency. In view of ratio laid down in **Munna Lal Jain and another Vs. Vipin Kumar Sharma and others, 2015(3) PLR 304,** in case of death of bachelor, the age of the deceased is the relevant factor for applying the multiplier. The age of the deceased was 18 years at the time of accident, therefore, in view of **Smt. Sarla Verma Vs. Delhi Transport Corporation 2009 (3) RCR (Civil) 77,** a multiplier of 18 would be just and appropriate and after applying multiplier of 18, the total amount of compensation would be Rs.3,24,000/- ($18,000 \times 18 = 3,24,000$). An amount of Rs.1,00,000/- can be awarded towards loss of love and affection in favour of mother in view of ratio laid down in **Vimal Kanwar and others Vs. Kishore Dan and others, 2013(2) RCR (Civil) 945** and an amount of Rs.25,000/- can be awarded towards funeral expenses. In this way, total amount of compensation would come out to be Rs.4,49,000/- ($3,24,000 + 1,00,000 + 25,000 = 4,49,000$). The amount already paid to the then injured Bhupinder Singh i.e. Rs.3,48,000/- has to be deducted from the total amount of compensation. Therefore, the appellant is entitled to Rs.1,01,000/- ($4,49,000 - 3,48,000 = 1,01,000$). Since this order is passed in peculiar facts and circumstances, therefore, there shall be no interest on the enhanced amount.

[7]. During course of arguments, learned counsel for respondent No.3 could not dispute the aforesaid mechanism

evolved by this Court in order to assess the total amount of compensation after the death of Bhupinder Singh, particularly when the earlier compensation was awarded when Bhupinder Singh was alive and second claim petition was filed by the mother after the death of Bhupinder Singh.

[8]. In view of above, I am of the view that the present method would be just and equitable to answer the controversy keeping in view the concept being a welfare legislation. Accordingly, the appeal is partly accepted.

July 25, 2017.

Prince

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No