

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

F.A.O No. 1612 of 2014

Date of decision:- 11.09.2017

Reliance General Insurance Co. Ltd.

...Appellant

Versus

Ravinder Kaur & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Subhash Goyal, Advocate
for the appellant.

Mr. Gagandeep Singh, Advocate
for the respondents

RITU BAHRI J. (Oral)

This appeal is by the insurance company disputing the liability foisted upon it by the Motor Accident Claims Tribunal, Ludhiana (for brevity 'the tribunal'), vide its order/award dated 21.11.2013 whereby the appellant-Company (for short 'the appellant') was held liable to make the compensation to the tune of Rs.14,21,000/-.

On 28.08.2008, the deceased Kamaljit Singh was going towards village Jagraon on his bicycle. When he reached in front of Dairy situated on the road, near Kothe Khanjuran, then one Santro Car bearing No. PB-25-C-0251 came from Jagraon side, being driven by respondent No. 1 tried to overtake the cycle of the deceased and hit the cycle from back side. As a result of this accident, the deceased fell down on the road and received multiple injuries. He died on the way to hospital.

The learned Tribunal took the salary of the deceased (35 years) at Rs.6000/- per month and added 50% as future prospect. Thereafter, the

Tribunal applied the multiplier of 16. Rs.25000/- were awarded on account of funeral expenses and Rs.1,00,000/- on account of loss of consortium. The total compensation awarded to the claimants was Rs.14,21,000/-.

Learned counsel for the appellant at the very outset argued that the learned Tribunal has fell in error by allowing 50% addition for future prospects to the income of the deceased. Further the learned Tribunal wrongly taken the income of the deceased at Rs.6000/- per month, as the claimants have failed to prove on record with regard to the income of the deceased and further learned counsel states that at the time of accident, the minimum wages of unskilled labourer was between 3200-4000.

This argument is liable to be dismissed in view of the detailed reasoning given by this Court in a case of **Santosh Devi v. Kailash Chand and others, decided on 14.07.2017 in FAO No. 3743-2016.**

Reference at this stage can further been made to a judgment of Hon'ble the Supreme Court of India in a case of ***Jakir Hussein vs. Sabir and others, 2015 ACJ 721*** wherein Hon'ble the Supreme Court has held that the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage may at times fail to meet the requirements that are need to maintain the basic quality of life since it is not inclusive of factors of cost of living index.

Further in the present case, the learned Tribunal has not awarded anything under the head of loss of love and affection to minor children and parents.

In view of the above factual position, this Court **suo moto**

taking cognizance while exercising the power under Article 226 of the Constitution of India and re-assessing the compensation of the claimants, in view of the judgment "*Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77*", '*Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54*' and '*Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459*', *Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520* and *Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193*.

Accordingly, the claimants are entitled to Rs.3,50,000/- i.e Rs.1 lac to each child under the head loss of love and affection and Rs.50,000/- to the mother under the head loss of love and affection.

In view of the above factual position, order/award dated 21.11.2013 passed by the Tribunal is modified to the above extent.

Accordingly, the appeal filed by the Insurance Company is dismissed and the claimants are entitled to get compensation of Rs.3,50,000/- over and above the amount already awarded by the Tribunal.

11.09.2017

G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No