

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

**FAO No.6549 of 2015**

**Date of Decision: 06.07.2017**

|                           |                 |
|---------------------------|-----------------|
| Jaswinder Kaur and others | .....Appellants |
| Versus                    |                 |
| Anil Kumar and others     | ... Respondents |

**CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present:Mr. Vipula Sharma, Advocate for  
Mr. Nitin Mittal, Advocate  
for the appellants.

None for respondents No.1 and 2.

Ms. Sheenu Sura, Advocate with  
Mr. R.K. Saini, Advocate  
for respondent No.3.

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**RAJ MOHAN SINGH, J.**

[1]. This appeal has been preferred by the appellants-claimants for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal')vide award dated 14.01.2015.

[2]. Accident took place on 25.05.2014 when the deceased Satwinder Singh was going from village Samlehri to Saharanpur in Tata Ace and was driving the same on the correct side of the road with a moderate speed. The owner of the buffaloes namely Rameshwar and Gaffar were sitting in the aforesaid vehicle. The brother of the deceased namely Sahab Singh was following him in the separate Tata Ace. At about 5:15 A.M when they reached near the village Manka Manki, the offending vehicle came in a

rash and negligent manner from the opposite side and struck into the Tata Ace of deceased Satwinder Singh. Due to impact, Tata Ace of deceased Satwinder Singh turned turtle and the truck also turned turtle in the ditches. All the occupants of Tata Ace suffered injuries. Deceased Satwinder Singh was taken to MM Hospital by his brother, where he was declared to be brought dead. The accident took place due to rash and negligent driving of the driver of the offending vehicle i.e respondent No.2. The matter was reported to the Police and FIR was got registered against the driver of the offending vehicle. Claimants prayed for compensation to the tune of Rs.40,00,000/- on account of death of Satwinder Singh along with interest @ 18% per annum from the date of filing of the claim petition till final realization of the amount.

[3]. The claim petition was proceeded by the Tribunal. Both the parties were allowed to lead evidence. Under issue No.1, the Tribunal held that the accident in question took place due to rash and negligent driving of driver of the offending vehicle i.e. truck bearing registration No.HR-58B-1686. Under issues No.2 and 3, the Tribunal held that the deceased was 32 years of age and was a driver by profession. The income of the deceased was assessed to be Rs.6500/- per month. The annual income of the deceased was computed as Rs.78,000/-. The deduction to

the tune of 1/3<sup>rd</sup> was applied towards self expenses of deceased Satwinder Singh and the balance dependency of the family of deceased Satwinder Singh was assessed to be Rs.52,000/-. Keeping in view the age of deceased Satwinder Singh as 32 years, multiplier of 16 was applied and the amount to the tune of Rs.8,32,000/- was assessed. An amount of Rs.25,000/- was granted towards last rites of deceased Satwinder Singh and an amount of Rs.50,000/- each for the loss of love and affection was granted to the children. The wife of deceased Satwinder Singh was held entitled to an amount of Rs.50,000/- towards loss of consortium. In this way, total amount of Rs.8,57,000/- was assessed towards compensation. The total amount was ordered to carry interest @ 7.5% per annum from the date of filing of the claim petition till actual realization of the amount.

[4]. The Tribunal has assessed total compensation to the tune of Rs.8,57,000/-, but it appears that there is some anomaly in the calculation. However, this Court on the basis of material on record intends to re-assess the amount. Evidently, the accident took place in the year 2014 when deceased Satwinder Singh was driving the goods vehicle. From the fact itself it can be appreciated that Satwinder Singh (deceased) was a skilled person. It is a fact that as per Government Notification dated 14.08.2014, the minimum wage under Section 5 of the Minimum

Wages Act, 1948 in respect of skilled labourer was not less than Rs.9000/- per month in any case. Looking to the status of deceased Satwinder Singh as of driver on the date of accident, I deem it appropriate to assess the monthly income of deceased Satwinder Singh to be Rs.9000/- per month. In view of ratio laid down in **Rajesh and others Vs. Rajbir Singh and others, 2013(3) RCR (Civil) 170**, future prospects to the extent of 50% are also required to be added in the income of deceased Satwinder Singh, thereby making Rs.13,500/- as income to which deduction to the tune of 1/3rd has to be applied towards personal expenses of the deceased. In this way, monthly dependency of the family of deceased Satwinder Singh is assessed to be Rs.9000/- i.e Rs.1,08,000/- per year (9000x12=1,08,000). Keeping in view the age of deceased Satwinder Singh and in view of ratio laid down in **Smt. Sarla Verma Vs. Delhi Transport Corporation 2009 (3) RCR (Civil) 77**, a multiplier of 16 has to be applied and after applying multiplier of 16, the total amount of compensation comes to be Rs.17,28,000/- (1,08,000 X 16=17,28,000). An amount of Rs.1,00,000/- each i.e. Rs.2,00,000/- is awarded towards loss of love and affection in favour of minor children and mother in view of **Vimal Kanwar and others Vs. Kishore Dan and others, 2013(2) RCR (Civil) 945**, an amount of Rs.1,00,000/- is

awarded towards loss of consortium in favour of widow claimant and an amount of Rs.25,000/- is awarded towards funeral and last rites of deceased Satwinder Singh. In this way, the amount, under the aforesaid conventional heads would come out to be Rs.3,25,000/-(2,00,000+1,00,000+25,000=3,25,000). Therefore, total amount of compensation would come out to be Rs.20,53,000/- (17,28,000+3,25,000=20,53,000).

[5]. During course of arguments, learned counsel for the appellants only pressed for the aforesaid heads for the purpose of seeking enhanced compensation. The enhanced amount calculated by this Court shall carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the amount. However, observations with regard to apportionment of the compensation and deposit of the same in the fixed deposit shall remain the same as ordered by the Tribunal. The additional amount of compensation is directed to be paid to the appellants in equal share without insisting upon the proportionate deposit in the fixed deposit.

[6]. With the aforesaid modification, the present appeal stands disposed of.

**(RAJ MOHAN SINGH)**  
**JUDGE**

06.07.2017

prince

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No