

224

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

**FAO No.7492 of 2015 (O&M)
Date of Decision: 08.09.2017**

**Sukhbir Kaur and others Appellants
Vs
Satbir Singh and others Respondents**

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

Present: Mr. S.S. Momi, Advocate
for the appellants.

Mr. Deepak Suri, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J.

[1]. This is an appeal preferred against the award dated 08.07.2015 passed by the Motor Accident Claims Tribunal, Panchkula (hereinafter to be referred as 'the Tribunal') by the claimants under Section 166 of the Motor Vehicles Act for enhancement of compensation on account of death of Gurmel Singh in a motor vehicular accident.

[2]. Brief facts are that the accident in question took place on 06.09.2014 when Gurmel Singh was going on motorcycle and Narain Dass was riding with him as a pillion rider. Kirpal Singh was following them on a separate motorcycle. Gurmel Singh was driving the motorcycle with moderate speed and on correct left hand side of the road. He was following the traffic

rules. At about 11.00 a.m. when they crossed Mauli Chowki, Kirpal Singh was at distance of about 100 yards from Gurmel Singh, all of sudden, the offending vehicle make Tata Vista car came in a rash and negligent manner with high speed being driven by respondent No.1 from the opposite side and directly struck against the motorcycle of the deceased. Due to the impact, Gurmel Singh and Narain Dass fell down from the motorcycle. Gurmel Singh was ran over under the tyres of the car. The driver of the car stopped the car at some distance. When persons started gathering, he took the advantage of crowd and drove away the car. Narain Dass rushed to GMCH, Sector 32, Chandigarh whereas Gurmel Singh was taken to General Hospital, Sector 6, Panchkula where he was declared to be brought dead due to the injuries suffered by him.

[3]. The Tribunal held under issued No.1 that the accident in question took place due to rash and negligent driving of the offending vehicle by respondent No.1. Gurmel Singh was 41 years of age and was agriculturist. The claimant No.1 wife of the deceased Gurmel Singh while appearing as PW-1 deposed that the deceased was working as agriculturist and was also running a business of poultry farm in the village. Income of the deceased was pleaded to be Rs.30,000/- per month. *Jamabandi* for the year 2012-13 (Ex.P-10) and certificate

(Ex.P-11) issued by the Sarpanch were produced. The Tribunal did not consider the poultry farm business of the deceased and on the basis of material on record, assessed the monthly income of the deceased to be Rs.10,000/- per month.

[4]. The Tribunal assessed an amount of Rs.3,00,000/- on account of engaging services of some one else to continue the agricultural activities for five years till attaining the majority by the son of the deceased keeping in view the net loss suffered by the family to the tune of Rs.5,000/- per month on account of death of Gurmel Singh. Besides this, Tribunal also awarded an amount of Rs.1,00,000/- on account of loss of consortium and Rs.25,000/- on account of last rites and funeral expenses. In this way, total amount of compensation was calculated to be Rs.4,25,000/-. The said amount of compensation was ordered to carry interest @ 7.5% per annum from the date of institution of the claim petition till final realization of the amount. The liability of the respondents was held to be joint and several to pay the aforesaid amount of compensation.

[5]. I have heard learned counsel for the parties.

[6]. On the basis of material on record, Tribunal fixed the monthly income of the deceased to be Rs.10,000/- per month.

This Court also finds that the assessment of monthly income of

the deceased to the tune of Rs.10,000/- is just and proper. In view of land holding and the nature of avocation of the deceased to be agriculturist which itself is dependent upon so many factors, therefore, the plea of the claimants for future prospects of agricultural pursuits cannot be considered as a definite phenomenon. Income of the deceased has been assessed to be Rs.10,000/- per month i.e. Rs.1,20,000/- per annum. Seeing the composition of the family, 1/4th of the income is to be considered towards personal expenses of the deceased. Therefore, Rs.90,000/- can be taken to be annual dependency of the family. In view of age of the appellant as 41 years at the time of accident and as per ratio laid down in **Smt. Sarla Verma vs. Delhi Transport Corporation, 2009(3) RCR (Civil) 77**, multiplier of 14 would be just and appropriate. In this way, loss of dependency of the family would come out to be Rs.12,60,000/- (90,000 x 14). Since, the Tribunal has granted Rs.3,00,000/- towards loss of income on account of death of the deceased for five years keeping in view the age of son of the deceased, therefore, the said amount can be subtracted from the amount assessed towards loss of dependency. The remaining amount of Rs.9,60,000/- (12,60,000 - 3,00,000) can be computed towards loss of dependency of the family.

[7]. The Tribunal has awarded Rs.1,00,000/- towards loss

of consortium. There are four claimants except the wife who has already been granted the aforesaid amount towards loss of consortium. The remaining claimants are entitled to Rs.1,00,000/- each towards loss of love and affection in view of ratio laid down by the Hon'ble Apex Court in **Smt. Neeta w/o Kallappa Kadolkar and others vs. The Divn. Manager, MSRTC, Kolhapur, 2015(1) RCR (Civil) 625**, therefore, an amount of Rs.3,00,000/- is awarded under the head of loss of love and affection. The award of Rs.25,000/- on account of last rites and funeral expenses awarded by the Tribunal is found to be on correct side. No enhancement can be made under this head.

[8]. In view of aforesaid re-assessment, a comparative chart can be prepared in the following manner:-

Sr. No.	Heads	Amount awarded by the Tribunal	Amount assessed in Appeal	Difference
1	Compensation based on annual dependency of the family	Rs.3,00,000/-	Rs.12,60,000/-	Rs.9,60,000/-
2	Loss of consortium	Rs.1,00,000/-	Rs.1,00,000/-	Nil
3	Loss of love and affection to each of the claimant Nos.2 to 4.	Nil	Rs.3,00,000/-	Rs.3,00,000/-

4	Last rites and funeral expenses	Rs.25,000/-	Rs.25,000/-	Nil
Total compensation		Rs.4,25,000/-	Rs.16,85,000/-	Rs.12,60,000/-

[9]. The enhanced amount i.e. Rs.12,60,000/- would carry interest @ 7.5% per annum from the date of filing of the claim petition till final realization of the same.

[10]. In view of aforesaid modification, the present appeal stands disposed of.

September 08, 2017

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No