

**Sr. No.205
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO No.410 of 1991 (O&M)
Date of Decision: 27.07.2018**

Gurdev Kaur and another

... Appellants

Versus

Gurmej Singh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Rajat Dogra, Advocate for
Mr. K.S.Brar, Advocate,
for the appellants.

Mr. Alok Mittal, Advocate,
for respondent Nos.1,2 and 4

Mr. R.K.Bashamboo, Advocate,
for respondent No.3.

TEJINDER SINGH DHINDSA, J.(ORAL)

This is a claimants' appeal seeking enhancement of compensation.

Briefly noticed that the claim petition was preferred seeking compensation to the tune of Rs.5 lakhs on account of death of Jhanda Singh in an accident that took place on 30.03.1988.

The claimants were the widow and son of the deceased. Claim petition having been contested by the owner/driver as also the Insurance Company, the following issues were framed by the Tribunal:-

1. "Whether Harbans Singh respondent caused death of Jhanda Singh by driving vehicle No.PJO-7425 rashly and negligently on

30.03.1988 in the area of village Kothe Ber Wala?

OPP.

2. Whether the claimants are the heirs of deceased Jhanda Singh and entitled to compensation, if so to what amount and from which of respondents?

3. Whether the application is bad for non-joinder of necessary parties? OPR.

4. Relief.”

Insofar as issue No.1 was concerned, findings were returned in favour of the claimants and it was held that death of Jhanda Singh had occurred on account of rash and negligent driving of the offending vehicle at the hands of the driver and which had caused the accident.

Insofar as quantum of compensation is concerned, Tribunal assessed the monthly income of the deceased as Rs.1450/-. The deduction of 1/3rd was made towards personal and living expenses of the deceased. Multiplier of 10 was applied. Accordingly, the compensation amount was as Rs.84,000/- in all. The liability to pay and make good the compensation amount has been fastened upon the Insurance Company.

Since the only issue raised in the instant appeal is with regard to quantum of compensation, I have heard counsel for the claimants/appellants and counsel representing the contesting Insurance Company.

Having heard counsel for the parties at length, this Court is of the considered view that the compensation awarded by the Tribunal is on the lower side and requires to be suitably

enhanced.

Claimants in the present case had adduced evidence to prove that deceased was working as a 'Caretaker' in the Market Committee, Kotkapura and was 47-48 years of age. In other words, he was on a permanent job and drawing a salary of Rs.1450/- per month. Tribunal has rightfully deducted 1/3rd from the monthly income towards personal and living expenses of the deceased keeping in view the number of dependants.

Keeping in view the age of the deceased to be 47-48 years, the Tribunal ought to have applied the multiplier of 13 instead of 10 in the light of judgment of Supreme Court in case of ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77***. It is so directed.

The Tribunal has further erred in not giving an increase in income towards future prospects in the light of dictum in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***. Against the admitted factual premise that the deceased was on a permanent job, an increase in income @ 30% towards future prospects is granted.

That apart, no amount has been awarded to the claimants under the conventional heads i.e. loss of estate, funeral expenses and loss of consortium.

As per ***Pranay Sethi's case (supra)***, a lump sum amount of Rs.70,000/- is admissible under the conventional heads. However, this Court cannot be oblivious of the fact that the accident in the present case occurred in the year 1988.

Accordingly, an amount of Rs.50,000/- is awarded towards loss of estate, funeral expenses and loss of consortium.

In view of the discussion hereinabove, the compensation amount is re-assessed and calculated hereinbelow:-

Sr. No.	Head	Calculation
1.	Income Rs.1450/- p.m.	Rs.1450 + 30% future prospects =1450+435=Rs.1885/-
2.	1/3rd deduction towards personal and living expenses of the deceased	Rs.1885-622=1263/- Rs. 1263 x 12=15,156/-
3.	Compensation after applying multiplier of 13	Rs. 15,156 x 13=1,97,028/-
4.	Conventional Heads: loss of estate, loss of consortium and funeral expenses	Rs.50,000/-
	Total	Rs.2,47,028/-

The afore calculated enhanced compensation amount be paid to the appellants along with interest @ 6% per annum from the date of filing of this appeal till actual realization.

Appeal is allowed in the aforesaid terms.

27.07.2018

vandana

(TEJINDER SINGH DHINDSA)

JUDGE

Whether speaking/reasoned

Whether Reportable

Yes

Yes