

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

**FAO No. 1165 of 2002 (O&M)**

Date of decision : September 05, 2018

Smt. Santra

.....Appellant

Versus

Rati Ram and others

....Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Tapan Vir Yadav, Advocate  
for the appellant.

Mr. Vinod Gupta, Advocate  
for respondent No. 3.

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**LISA GILL, J.**

Present appeal has been filed by the claimant – mother of the deceased for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as the 'Tribunal') on account of death of vide award dated 23.08.2001.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow and parents of the deceased filed petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Virender Singh on 28.11.1990 in a motor vehicle accident caused due to driving of the offending vehicle Truck bearing registration No. DIG-5427 driven by respondent No.1 in a rash and negligent manner. It was averred that Kishan alongwith Lal Singh was going towards village Sehrawan in his Truck No. HNM-766 driven by Virender Singh. When they reached near village Khandsa on Gurgaon Jaipur National Highway, offending vehicle Truck bearing registration No. DIG-5427 came from

opposite side and hit the truck driven by Virender Singh. Injuries were received by Virender Singh and other occupants. They all were removed to General Hospital, Gurgaon. Due to injuries sustained, Virender Singh died on 28.11.1990 in Sardarjang Hospital. The deceased, aged 23 years at the time of the accident was stated to be earning a sum of ₹1,200/- per month while driving a truck.

Claim petition was resisted by the respondents. Following issues were framed by the learned Tribunal:-

1. Whether Virender Singh son of Raj Singh died as a result of rash and negligent driving of vehicle No. DIG-5427 by its driver Rati Ram, respondent No. 1 ? OPP
2. To what amount of compensation the petitioner are entitled to and from whom? OPP.
3. Whether respondent No. 1 was not holding a valid driving licence at the time of alleged accident, if so to what effect? OPR3
4. Relief.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 26.11.1990 due to rash and negligent driving of the offending Truck bearing registration No. DIG-5427 by respondent No. 1. Learned Tribunal awarded a sum of ₹2,18,000/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹1,200/- per month. Deduction of 1/4<sup>th</sup> was effected, keeping in view the number of dependants. Multiplier of 20 was applied as the deceased was 23 years old at that time. Sum of ₹2,000/- was awarded on account of funeral expenses.

Aggrieved of the quantum of compensation, claimants have

filed this appeal.

Learned counsel for the appellants submits that there is no dispute regarding the income of the deceased assessed as ₹1,200/- by the learned Tribunal. It is submitted that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, loss of future prospects at the rate of 40% should be afforded. Multiplier of 18 should have been applied. Compensation on account of funeral expenses is too meagre and compensation for loss of consortium and estate should be awarded while it is fairly stated that deduction of 1/3<sup>rd</sup> should be effected. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 23.08.2001 be upheld.

Heard learned counsel for the parties.

There is no dispute that Virender Singh lost his life in a motor vehicle accident, which took place on 26.11.1990 caused due to the rash and negligent driving of Truck bearing registration No. DIG-5427 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is also not disputed that the deceased was 23 years old at the time of the accident.

There is no dispute regarding the income of the deceased to be ₹1,200/- per month as assessed by the learned Tribunal. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 40% (₹480/-)

is afforded in view of the age of the deceased (23 years), which takes the income of the deceased to ₹1680/- per month. In view of laid down by the Hon'ble Supreme Court in Smt. Sarla Verma and others Versus Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77, deduction of 1/3<sup>rd</sup> is to be applied as number of dependants is three (3), thereby rendering income of the deceased to be ₹1120/-(1680-560). Multiplier of 18 is required to be applied, age of the deceased being 23, in view of the judgment of the Hon'ble Supreme Court in Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347. Applying a multiplier of 18, dependency of the claimants is, therefore, assessed as ₹2,41,920/- (₹1120x12x18). The claimants are also entitled to ₹10,000/- each for funeral expenses and loss of estate besides the claimant widow is entitled to ₹30,000/- on account of loss of consortium. Claimants are, thus, entitled to total compensation of ₹2,91,920/- detailed as under:-

|                                  |                    |
|----------------------------------|--------------------|
| Loss of dependency (₹1120x12x18) | ₹2,41,920/-        |
| Loss of consortium               | ₹30,000/-          |
| Loss of estate                   | ₹10,000/-          |
| Funeral expenses                 | ₹10,000/-          |
| <b>Total</b>                     | <b>₹2,91,920/-</b> |

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellants shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

September 05, 2018  
rts

(Lisa Gill)  
Judge

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No