IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.970 of 1998
Date of decision: 27.09.2018

Surinder Kaur and others .....Appellants.

Vs.

Jagbir Singh and others. .....Respondents.

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

Present: Mr. N.C. Kinra, Advocate
for the appellants.

Mr. Surinder Saini, Advocate
for LRs of respondent No.2.

Mr. Aseem Aggarwal, Advocate
for respondent No.3.

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TEJINDER SINGH DHINDSA, J. (ORAL).

This is a claimants' appeal seeking enhancement of compensation.

Briefly noticed that a claim petition was filed under Section 166 of the Motor Vehicles Act, seeking compensation to the tune of Rs. 10 lakhs on account of death of Rajinder Singh in a Motor Vehicle Accident that took place on 14.02.1995.

Claimants asserted that Rajinder Singh (since deceased) was driving scooter and was struck by a truck bearing Registration No. HR-12-1585 and sustained grievous injuries and due to which, he succumbed on the spot. Claimants were the widow and three minor children of the deceased.

The claim petition having been contested, the following issues were framed by the Tribunal:-

> *1. Whether respondent No.1 parked his truck bearing Registration No. HR-12-1585 in the middle of the road near Punjab Agricultural University, Ludhiana, and the decased struck his scooter bearing Registration No. PB-10-N-3612 against truck at 9.15 PM which was parked without any indicator or with any other precaution resulting in his death at spot ?OPA*
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> *2. Whether applicants are the next heirs, legal*

representatives and dependant upon the decased ? OPA

3. To what compensation, if any, the claimants are entitled and from whom ?OPA

4. Whether the petition is bad for misjoinder and non-joinder of necessary parties, OPR-3.

5. Whether the driver of the truck was not having a valid driving licence at the time of accident, if so its effect ? OPR-3.

6. Whether Rajinder Singh, deceased, was holding a valid driving licence at the time of occurrence. If so its effect ? OPR-3.

7. Relief.

In so far as issue No.1 is concerned, findings have been returned in favour of the claimant and it was held that death of Rajinder Singh occurred on account of injuries suffered in an accident involving the offending vehicle/ insured truck and which was being driven by Jagbir Singh in a rash and negligent manner.

In so far as quantum of compensation is concerned, the Motor Accident Claims Tribunal, Ludhiana vide award dated 02.02.1998 has awarded compensation of Rs. 1,80,000/- along with interest @ 12% per annum from the date of filing of the claim petition till actual realization.

Since, the only issue involved in the instant appeal is with regard to quantum of compensation, I have heard learned counsel for the appellants as also counsel representing the contesting respondent/insurance company.

This Court is of the considered view that the compensation amount deserves to be suitably enhanced by following the parameters laid by the Apex Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77 and National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009.***

Claimants had asserted that deceased was the sole proprietor of a gift shop and was running the business operations under the name and style of M/s Variety Centre Ghumar Mandi Road, Ludhaina and earning Rs.5000/- per month. Tribunal has however assessed the monthly income of Rs.1500/- per month.

Even though, no conclusive evidence has been adduced towards the precise income being generated from running the gift shop i.e. M/s Variety Centre Ghumar Mandi Road, Ludhaina, but the claimants have examined PW-3 Ravinder Singh and who has deposed that he was the Accountant and had brought the trading accounts, profit and loss accounts and also the balance sheets of the said firm. Documents in this regard were duly tendered and exhibited as Ex.P2 to P6. Concededly, no income tax return had been filed by Rajinder Singh during his life time.

Be that as it may, the evidence adduced on record would be sufficient to infer that the deceased was running a gift shop under M/s Variety Centre. Deceased was managing and maintaining a family comprised of his widow and three minor children.

Under such circumstances and by way of approximation/guess work it would be fair to access monthly income of the deceased Rs.2000/- per month, in relation to the date of accident i.e. 14.02.1995.

There is no dispute that deceased was 36 years of age at the time of his death. Under such circumstances, the Tribunal has rightfully applied the multiplier of 15 to the multiplicand.

Tribunal, however, has completely overlooked the aspect of granting addition in income towards future prospects. Since it was the case of the claimants themselves that deceased was self employed and that he was 36 years of age, an addition in income @ 40% towards future prospects is awarded as per parameters laid down by the Supreme Court in ***Pranay Sethi's case (supra).***

The deceased was maintaining a family comprising of his widow and three minor children. Keeping in view the number of dependents and as per guidelines issued in **Smt. Sarla Verma's case (supra),** the Tribunal ought to have made a deduction of ¼th from the monthly income towards personal and living expenses. It is so directed.

The Tribunal has further erred in not granting any compensation under the conventional heads.

By following the dictum laid down in **Pranay Sethi's case (supra),** an amount of Rs.70,000/- is awarded under conventional heads i.e. Rs.40,000/- towards loss of consortium, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate.

In view of the discusssion made above, the compensation amount is re-assessed and calculated as follows:-

Sr. No.	Head	Calculation
1.	Income Rs.2000/- p.m.	Rs.2000/-
2.	Addition in income @ 40% towards future prospects	Rs.800/- 2000+800=2800/-
3.	1/4th deduction towards personal and living expenses of the deceased	Rs.2800-700=2100/- Rs.2100 x 12=25,200/-
4.	Compensation after applying multiplier of 15	Rs.25,200 x 15=3,78,000/-
5.	Conventional Heads: loss of estate, loss of consortium and funeral expenses	Rs.70,000/-
	Total	Rs.3,78,000 + 70,000 = Rs.4,48,000/-

The afore-calculated enhanced compensation amount be released in favour of the appellant No.1 Surinder Kaur i.e. widow of the deceased and mother/natural guardian of appellants No. 2, 3 and 4 along with interest @ 6% per annum from the date of filing of the instant appeal till actual realization.

Appeal is allowed in the aforesaid terms.

27.09.2018 **(TEJINDER SINGH DHINDSA)**
Ali **JUDGE**

Whether speaking/reasoned **Yes/No**
Whether Reportable **Yes/No**