

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

FAO No. 1976 of 2016(O&M)

Date of Decision: August 14 , 2018.

Simarjit Kaur @ Simar Kaur and another APPELLANT (s)

Versus

Amarjit and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Brig. B.S.Taunque, Advocate
for respondent No.3 – Insurance Company.

LISA GILL, J.

CM No.7607-CII of 2016

There is a delay of 356 days in refiling the appeal.

For the reasons mentioned in the application, duly supported by an affidavit as well as arguments addressed, delay of 356 days in refiling of the appeal is condoned.

Application is allowed.

FAO No.1976 of 2016

This is an appeal preferred by the claimants seeking enhancement of compensation awarded to them by the learned Motor Accident Claims Tribunal,

Patiala (for short, the 'Tribunal') vide impugned award dated 15.12.2014 on account of death of Darbara Singh @ Dirwara Singh in a motor vehicle accident. The claimants are parents of the deceased.

Brief facts necessary for adjudication of the case are that, the claimants/appellants filed a petition under Section 163-A of the Motor Vehicles Act (for short, the 'Act') seeking compensation on account of the death of Darbara Singh @ Dirwara Singh, who lost his life due to the injuries suffered by him in a motor vehicle accident which took place on 28.11.2012 on account of the use and involvement of Alto car bearing registration No.HR-99-NFTP-3035 by respondent No.1. DDR No.10 dated 25.11.2012 (Ex.P1) was lodged at Police Station Julkan regarding the accident in question. Claim petition filed by the claimants was resisted by the Insurance Company as well as the driver and owner of the offending vehicle by filing separate written statements.

From pleadings of the parties, the learned Tribunal framed the following issues:-

- “1. Whether claimants are entitled to compensation u/s 163-A of the Motor Vehicles Act, 1988? OPP
2. Whether the present petition is not maintainable? OPR
3. Whether the respondent No.1 is not holding a valid RC, fitness certificate and driving license? OPR
4. Whether this Court has got no jurisdiction to decide the present claim? OPR
5. Relief.”

The learned Tribunal on consideration of the facts and evidence on record concluded that the accident in question has been proved to have taken place due to the use and involvement of Alto car bearing registration No.HR-99-

NFTP-3035 by respondent No.1. Accordingly, Issue No.1 was decided in favour of the claimants. This finding of the learned Tribunal has not been challenged and the same thus attained finality.

The learned Tribunal awarded a total sum of ₹1,63,600/- as compensation to the claimants vide impugned award dated 15.12.2014. The deceased was stated to be doing labour work and his income was assessed as ₹3,300/- per month. Deduction at the rate of 50% on account of personal expenses was effected and multiplier of 7 was applied.

Sole argument raised by learned counsel for the claimants/appellants is that the multiplier of 7 has been incorrectly applied as the deceased was, admittedly, 28 years old at the time of the accident. It is however submitted that there is no objection in case the amount of ₹25,000/- awarded towards funeral expenses is reduced to ₹2,000/- in terms of the Schedule II of the Act.

Learned counsel for respondent No.3-Insurance company prays for upholding the award the same being reasonable and justified in the facts and circumstances of the case.

I have heard learned counsel for the parties and have gone through the file of this case.

The matter regarding application of multiplier while assessing the compensation is no longer res integra. The Hon'ble Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma, (2015) 6 SCC 347** has specifically held that the multiplier is to be applied with reference to the age of the deceased. As per the post-mortem report (Ex.P2), the deceased was 28 years old at the time of the accident. Therefore, multiplier of 17 is required to be applied in terms of the

judgment of the Hon'ble Supreme Court in Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77. Income of the deceased as assessed by the learned Tribunal i.e., ₹3,300/- per month is not in dispute. Appellants-claimants are, thus, entitled to amount of compensation, which is re-worked as under:-

<i>Sr.No.</i>	<i>Heads of Claim</i>	<i>Amount</i>
1.	Income	3300 p.m. i.e. ₹39,600/- per annum
2.	Income after deduction of 50% on account of personal expenses	39,600 x 50% = 19,800
3.	Total dependancy after applying a multiplier of 17	(19,800 x 17) = 3,36,600
4.	Funeral expenses	2,000
Grand Total		₹3,38,600/-

Needless to say, the amount already awarded by the learned Tribunal shall stand deducted from the compensation as detailed above. Claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of filing of the petition till realization. Ratio of apportionment amongst the claimants as determined by the learned Tribunal shall remain the same.

Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

August 14 , 2018.
'om'

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