

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

1. FAO No.5594 of 2015 (O&M)
Date of decision: 18.05.2018

Sukhwinder Singh and others Appellants

Versus

Rahul Singla and others Respondents

2. FAO No.5591 of 2015 (O&M)

Sukhpal Singh and others Appellants

Versus

Rahul Singla and others Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Ms. Amanpreet Kaur, Advocate
for the appellants.

Mr. Rajesh Bansal, Advocate
for respondent No.3 in FAO No.5594 of 2015.

Mr. Neeraj Khanna, Advocate
for respondent No.3 in FAO No.5591 of 2015.

Avneesh Jhingan, J.

The present two appeals have been filed against the award dated 16.04.2015 passed by Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as the 'Tribunal').

On 27.09.2014, Manjit Kaur, aged 38 years and Narinder Kaur, aged 35 years, were going to Gurudwara Sahib. At about 5.00 a.m. near the turning of Buta Singh Wala, they were hit by a rashly and negligently driven car bearing registration No.DL-4C-NE/9841 (for short, 'the offending vehicle'). As a result of

the impact, they suffered grievous injuries and died at the spot. FIR No.91 dated 27.09.2014 was registered at Police Station Ghagga.

The legal heirs of the deceased Manjit Kaur filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act'). The Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The Tribunal assessed the notional earning of the deceased as Rs.4500/-per month and awarded a sum of Rs.8,60,000/-along with interest @ 7.5% per annum.

In the claim petition under the Act filed by legal heirs of deceased Narinder Kaur, the Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. The Tribunal assessed the notional earning of the deceased as Rs.4500/-per month and awarded a sum of Rs.9,24,000/-along with interest @ 7.5% per annum.

The claimants are in appeal for enhancement of compensation.

Learned counsel for the appellants argued that the deceased were not only house wives who were survived by minor children but were also looking after the agricultural work and the cattle. In such circumstances, the notional income assessed by the Tribunal is on the lower side. She further contends that the amounts awarded under the conventional heads are on the lower side.

Learned counsel for the insurer of the offending vehicle contended that the claimants failed to prove the occupation and earning of the deceased. In such circumstances, no case is made out for enhancement.

It was argued that the amount has been awarded for loss of love and affection which the Tribunal should not have awarded.

In the present case, though the claimants were not able to prove the monthly earning of the deceased yet the role of a house maker cannot be under

estimated. Her services to the family and her performance of matrimonial duties cannot be measured in a monetary terms. More so in cases where the deceased had a background in which the family was indulging in agricultural work, her duties increase manifold. In absence of any proof of earning, taking a clue from the minimum wages prevalent at the time of the accident, the notional income of the deceased are assessed as Rs.6,000/- per month. As this is a notional income assessed, no deduction is made for self expenses. Manjit Kaur was 38 years of age, hence multiplier of 15 has been applied and in case Narinder Kaur, she was 35 years of age, multiplier of 16 is to be applied. The appellants are entitled to Rs.70,000/- under conventional heads.

In case of Manjit Kaur, compensation of Rs.10,80,000/- and Rs.70,000/- under the conventional heads i.e. Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium is awarded. The appellants are entitled to Rs.11,50,000/- as compensation.

The award dated 16.04.2015 is modified to the extent that the amount awarded by the Tribunal of Rs.8,60,000/- is enhanced to Rs.11,50,000/- as compensation.

In case of Narinder Kaur, applying the multiplier of 16 and amount of Rs.11,52,000/- is awarded for loss of dependency and Rs.70,000/- under conventional heads i.e. Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and Rs.40,000/- for loss of consortium. The claimants are entitled to an amount of Rs.12,22,000/- as compensation.

The award dated 16.04.2015 is modified to the extent that the amount awarded by the Tribunal of Rs.9,24,000/- is enhanced to Rs. 12,22,000/-.

The claimants are entitled to enhanced amount along with interest at the rate as awarded by the Tribunal from the date of filing the claim petition till the realisation of the amount.

The appeals are partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

18.05.2018
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1. Whether the order is speaking/reasoned: Yes/No
2. Whether the order is reportable : Yes/No