

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

FAO No.7722 of 2014 (O&M)

Date of Decision: 09.07.2018

Reena and others

... Appellants

Versus

Satbir and others

... Respondents

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

Present:- Mr. S.K.Verma, Advocate,
for the appellants.

Mr. Punit Jain, Advocate,
for respondent No.3.

TEJINDER SINGH DHINDSA, J.

This is a claimants' appeal seeking enhancement of compensation.

Brief facts that may be noticed are that Lakhan Pal @ Lakhan had died in a vehicular accident on 21.03.2013. Claim petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the claimants/present appellants, who happen to be the widow, two minor children and parents of the deceased. Compensation to the tune of Rs.30 lakhs was claimed.

Upon pleadings of the parties, the following issues were framed by the Trial Court:-

1) Whether the accident in question was caused by respondent No.1 while driving Truck bearing registration No.HR-39-7786 in a rash and negligent manner causing death of Lakhanpal alias

Lakhan son of Mahender Singh as alleged? OPP

2. If issue No.1 is proved, whether claimants are entitled to any compensation and if so, to what extent and from whom?OPP.

3. Whether the respondents No.1 and 2 had violated any term and condition of the insurance policy? OPR

4. Relief.

Issue No.1 was decided in favour of the claimants and it was held that death of Lakhan had occurred due to rash and negligent driving of the offending vehicle i.e. truck bearing registration No. HR-39-7786 by respondent No.1 i.e. driver of the vehicle.

Insofar as issue No.2 is concerned, even though claimants had stated that deceased was the driver by profession and was earning Rs.25,000/- per month, the Tribunal has assessed the monthly income as Rs.7500/- per month. A cut off 1/3rd towards personal expenses had been applied and the annual dependency of the claimants was computed to be Rs.60,000/-. Age of the deceased was taken as 26 years and multiplier of 18 was applied and the compensation amount was calculated to be Rs.10,80,000/-. The Tribunal has further awarded Rs.1 lakh towards loss of consortium, a sum of Rs.25,000/- towards loss of love and affection for the minor children and Rs.25,000/- towards funeral expenses. The total compensation amount awarded as such is Rs.12,30,000/- and the respondents were held liable for such amount jointly and severally.

I have heard counsel for the parties.

The only issue arising in the instant appeal is with regards to quantum of compensation.

The expression “just compensation” was considered by the Supreme Court of India in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77*** and it was held that compensation awarded by the Tribunal does not become “just compensation” merely because the Tribunal considered it to be just. The expression “just” is adequate compensation which is fair and equitable, on the facts and circumstances of the case so as to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well settled principles relating to award of compensation.

Adverting back to the facts and circumstances of the present case, this Court is of the considered view that compensation awarded by the Motor Accident Claims Tribunal in the award dated 06.02.2014 needs to be revised as per guidelines and parameters furnished by the Hon’ble Supreme Court of India in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

Even though claimants had set up a case that the deceased was earning Rs.25,000/- per month being engaged in the profession of a driver yet no cogent and credible evidence had been adduced to substantiate such stand. Under such circumstances, the Tribunal has rightfully taken the income of the deceased as Rs.7500/- per month i.e. minimum wages for a skilled

worker at the relevant point of time i.e. 21.03.2013 i.e. the date of accident. The Tribunal in this regard placed reliance upon copy of driving licence Ex. P-2 of the deceased that had been brought on record and which reflected that he was a trained driver for driving MMV, HMTV and the endorsement in such regard had been made on the licence on 25.07.2011 and the licence stood renewed up to 19.11.2015. The Tribunal applied a cut of 1/3rd towards personal expenses of the deceased. Since admittedly the dependents in the present case were more than 3 in number the cut ought to have been taken as 1/4th as per guidelines furnished in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77.***

Further more since the deceased was self employed and his age has been taken as 26 years as reflected in Ex.P-2 i.e. copy of driving licence and Ex.P-4 Matriculation Examination Certificate etc., future prospects towards addition of income @ 40% are awarded as per dictum in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

Keeping in view the age of the deceased, the multiplier of 18 has been correctly applied.

I find that Tribunal had been rather generous in awarding Rs.1,50,000/- towards loss of consortium, love and affection and funeral expenses. The claimants/appellants herein are held entitled to a lumpsum of Rs.70,000/- under the conventional heads i.e. loss of consortium, loss of estate and

funeral expenses.

In view of the discussion made above, the compensation awarded to the claimants/appellants is re-assessed as follows:-

Sr. No.	Head	Calculation
1.	Income 7500/- p.m.	Rs.7500 + 40% future prospects =Rs.10500/-
2.	1/4th deduction towards personal expenses of the deceased	Rs.10500-2625=7875/- 7875 x 12=94500/-
3.	Compensation after applying multiplier of 18	94500 x 18=17,01,000/-
4.	Conventional Heads: loss of consortium, loss of estate, funeral expenses	70,000/-
5.	Total	Rs. 17,71,000/-

The enhanced compensation as calculated and assessed hereinabove be released in favour of respondent No.1 i.e. widow of the deceased and the mother /natural guardian-appellant Nos.2 and 3 along with interest @ 6% from the date of filing of the instant appeal till the date of realization.

Appeal is disposed of in the aforesaid terms.

09.07.2018
vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes