

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

FAO-7396-2015 (O&M)
Reserved on:03.07.2018
Date of decision:14.09.2018

Layak Ram & others

... Appellants

Versus

Rishi Pal & others

... Respondents

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

Present: Mr. Neeraj Khanna, Advocate for the appellants.

Mr. N.S. Panwar, Advocate for respondents No.1 and 2.

Mr. Ashok Mathur, Advocate for Insurance Company.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

This is claimant's appeal seeking enhancement of compensation.

2. Briefly, it may be noticed that a claim petition under Section 166 of the Motor Vehicle Act for grant of just and fair compensation was filed in the Motor Accident Claims Tribunal, Panchkula on account of death of Smt. Kamla Devi in a motor vehicle accident that took place on 12.08.2014.

3. Claimants were the husband and two major sons of the deceased.

4. Claim petition having been contested, the following issues were framed by the Tribunal:

“(1) Whether on 12.08.2014, Kamla Devi died on account of sustaining injuries in the accident in question which took place on account of rash and negligent driving of bus bearing

registration No.HR-68-A-8236, driven by respondent No.1? OPP.

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

(3) Whether respondent No.1 was not holding a valid and effective driving license at the time of accident in question, if so to what effect? OPR-3

(4) Relief.”

5. Insofar as issue No.1 is concerned, findings were returned in favour of claimants and it was held that deceased Kamla Devi died on account of injuries suffered by her in the accident which took place on account of rash and negligent driving by Rishi Pal/respondent No.1 being driver of the offending bus bearing registration No.HR-68-A-8236.

6. As regards quantum of compensation, notional income of the deceased as housewife was taken as Rs.3000/- per month. Accepting the age of the deceased to be 53 years, multiplier of 10 has been applied. An amount of Rs.1 lakh has been awarded towards loss of consortium and Rs.25,000/- has been given towards funeral expenses. In all, the compensation computed is Rs.5,10,000/- to be paid along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization.

7. Liability to pay the compensation amount was fastened upon the insurance company.

8. Since the only issue involved in the instant appeal is with regard to quantum of compensation, I have heard counsel for the appellants as also counsel representing the contesting respondent No.3/Insurance Company.

9. In the considered view of this Court, the compensation amount awarded by the Tribunal in the award dated 16.07.2015 requires to be

enhanced and re-assessed.

10. Even though, claimants had asserted that deceased Kamla Devi was running a shop to sell groceries etc. outside a temple and was earning Rs.16,000/- per month, yet, no documentary evidence had been adduced to substantiate such claim. Accordingly, Tribunal took a view that the deceased is to be treated as a housewife and has taken a notional income as Rs.3000/- per month.

11. While assessing such notional monthly income to be Rs.3000/-, Tribunal has relied upon judgment of the Apex Court in **Lata Wadhwa Vs. State of Bihar, 2001 (4) RCR (Civil) 673**.

12. It may be noticed that the accident in the case of **Lata Wadhwa (supra)** has taken place in the year 1981 and wherein the Hon'ble Supreme Court had evaluated the contribution of a housewife at Rs.3000/- per month.

13. Accident in the facts of the present case took place in the year 2014. Keeping in view the multifarious role that a housewife discharges and the time span that has elapsed since the judgment rendered in **Lata Wadhwa's case (supra)**, it would be just and equitable to assess the notional income of the deceased to be Rs.6000/- per month.

14. Against undisputed factual premise of the age of the deceased to be 53 years, Tribunal ought to have applied the multiplier of 11 instead of 10 by following the parameters laid down by the Apex Court in **Sarla Verma & others Vs. Delhi Transport Corporation & another, 2009 (3) RCR (Civil) 77**. It is so directed.

15. Counsel for the claimants/appellants would fairly concede that the amount of Rs.1,25,000/- awarded by the Tribunal towards loss of

consortium and funeral expenses would require to be scaled down to Rs.70,000/- in all i.e. loss of consortium, loss of estate and funeral expenses. Directed accordingly.

16. In view of the above, the enhanced/re-assessed compensation amount would be as follows:

Sr. No.	Computation/Head	Revised calculation
1.	Income Rs.6000/-per month	
2.	Compensation after applying multiplier of 11	6000 x 12 = 72,000/- 72,000 x 11 =7,92,000-
3.	Conventional Heads i.e. funeral expenses, loss of estate and loss of consortium etc.	Rs.70,000/- 7,92,000+70,000=8,62,000/-
4.	Total	Rs.8,62,000/-

17. The afore calculated revised/enhanced compensation amount be released in favour of the claimants/appellants along with interest at the rate of 6% per annum from the date of filing of the instant appeal till actual realization.

18. Appeal is allowed in the aforesaid terms.

14.09.2018
harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

- i) Whether speaking/reasoned? Yes/No
- ii) Whether reportable? Yes/No