

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

FAO-9142-2014 (O&M)
Judgement reserved on: 17.07.2018
Date of Decision: 30.07.2018

Bimla Devi & another

--Appellants

Versus

Mani Ram & others

--Respondents

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

Present:- Mr. Bhupinder Ghanghas, Advocate for the appellants.

Mr. P.K. Garg, A.A.G., Haryana for
respondents no.2 & 3.

Mr. Vinod Chaudhary, Advocate for respondent no.4.

TEJINDER SINGH DHINDSA.J

This is claimants' appeal seeking enhancement of compensation.

Brief facts that may be noticed are that Radhey Sham died in a motor vehicle accident on 14.9.2013 when he was struck by a Haryana Roadways Bus bearing registration no. HR-57-3088 while he was proceeding on a Moped.

The claim petition was filed under Section 166 of the Motor Vehicle Act, 1988 before the Motor Accident Claims Tribunal (herein after to be referred as the Tribunal), Bhiwani by the claimants/present appellants i.e. the parents.

Compensation to the tune of Rs.30 lacs was claimed.

Upon pleadings of the parties, the following issues were framed by the Tribunal.

“(1) Whether the accident in question resulting into death of Radhey Shyam son of Mani Ram took place on 14.9.2013 due to rash and negligent driving of Haryana

Roadways bus bearing registration no. HR-57-3088 by respondent no.1 Mani Ram, as alleged?OPP

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

(3) Whether respondent no.1 was not holding a valid and effective driving licence at the time of accident?OPR-4.

(4) Relief.”

With regard to the death of Radhey Sham having been caused due to rash and negligent driving of the vehicle in question by respondent no.1 i.e. driver of the offending vehicle, findings have been returned in favour of the claimants.

As regards issue of entitlement to compensation and the quantum thereof, Tribunal has taken the monthly income of the deceased as Rs.6200/-. Since deceased was unmarried and was a bachelor at the time of accident, 50% deduction has been made towards personal expenses of the deceased and the annual dependency qua the claimants has been assessed as Rs.37,200/- (3100x12). A multiplier of 14 has been applied by taking into reckoning the age of the claimants and accordingly compensation has been worked out to Rs.5,20,800/-. Funeral expenses have been assessed @ Rs.25,000/-. The total compensation amount awarded, as such, is Rs.5,45,800/- and to be paid to the claimants in equal share along with interest @ 6% per annum from the date of filing of the claim petition till realization of the amount.

Since the only issue arising in the instant appeal is with regard to quantum of compensation, I have heard Mr. Bhupinder Ghanghas Advocate for the appellants and Mr. Vinod Chaudhary, Advocate for contesting respondent no.4/Insurance Company.

The expression “just compensation” was considered by the Hon'ble Supreme Court in case of ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) R.C.R (Civil), 77*** and it was held that the compensation awarded by a Tribunal does not become “just” merely because the Tribunal considered it to be “just”. “Just compensation” would mean adequate compensation which is fair and equitable on the facts and circumstances of a case so as to make good the loss suffered as a result of the wrong as far as money can do so by applying 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 the compensation awarded by the Tribunal is on the lower side and needs to be enhanced/revised as per guidelines furnished by the Apex Court in ***Sarla Verma's*** case (supra) as also in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017(4) R.C.R (Civil), 1009***

Even though, claimants had stated that their son Radhey Sham (since deceased) was a scrap dealer and earning Rs.25,000/- per month, yet, no cogent and conclusive evidence had been adduced to substantiate such claim. Apart from the oral statement made by PW Mani Ram/appellant no other evidence was brought forth. No bank statements of deceased Radhey Sham had been produced. The Tribunal without assigning any reason has assessed the monthly income of the deceased to be Rs.6200/- per month including future prospects. Counsel for the contesting Insurance Company has not been able to dispute that the minimum wages of an unskilled worker as per State Govt. at the relevant point of time were Rs.6200/- at the very least. In the considered view of this Court, the Tribunal has erred in not

granting 40% increase in income over and above Rs.6200/- towards future prospects. This would be particularly so as age of deceased was reflected as 23 years in the Post Mortem Report Ex.P-2. Furthermore, as per guidelines furnished in *Sarla Verma's* case (supra), a multiplier of 18 has to be applied keeping in view the age of the deceased. Even for grant of compensation under conventional heads i.e. towards funeral expenses etc., the amount of compensation requires to be enhanced from Rs.25,000/- to Rs.30,000/-.

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

Sr. No.	Head	Calculation
1.	Income	6200/- p.m.
2,	40% increase in income towards future prospects	6200+40%=8680/-
3.	50% deductions towards personal expenses of the deceased	$\frac{8680}{2} = 4340$
4.	Compensation after applying multiplier of 18.	4340x12=52,080/- 52,080x18=9,37,440/-
5.	Conventional heads (funeral expenses and loss of estate etc.)	30,000/-
	Total	9,37,440+30,000 =Rs.9,67,440/-.

The aforesaid enhanced compensation would be apportioned equally amongst the appellants and would be paid to them along with interest @ 6% from the date of filing of the instant appeal and till the date of actual realization.

Appeal is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

30.07.2018

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No