

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

FAO No. 6835 of 2016 (O&M)

Date of decision : September 18, 2018

Ram Kali

.....Appellant

Versus

Sajjan Pal Singh and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellant.

Mr. Satpal Dhamija, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimant for enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as the 'Tribunal') on account of death of Sajjan Kumar vide award dated 29.04.2016.

Brief facts necessary for adjudication of the case are that the claimant i.e. widow of the deceased filed petition under Section 166/140 of the Motor Vehicles Act seeking compensation on account of death of Sajjan Kumar on 22.03.2013 in a motor vehicle accident caused due to driving of the offending vehicle Truck bearing registration No. HR69-A-3681 driven by respondent No.1 in a rash and negligent manner. It was averred that on 22.03.2013, Sajjan Kumar alongwith his son Sat Narain and one Ankit was going from Delhi to Chandigarh in Maruti Ritz car. When they reached G.T. Road, NH-1 within the area of Police Station Taraori near village Ramba turn, all of a sudden, the offending Truck bearing registration

No. HR69-A-3681 came from opposite side of the road and hit the car of Sat Narain. Driver of the offending vehicle fled while leaving the offending truck at the spot. Injuries were received by all the occupants. They were shifted to General Hospital, Karnal where Sajjan Kumar succumbed to his injuries. FIR No. 72 dated 22.03.2013 under Sections 279, 337, 338, 304A IPC was registered at Police Station Taraori, District Karnal in respect to the accident. The deceased, aged 55 years at the time of the accident was a businessman, stated to be earning a sum of ₹25,000/- per month.

Claim petition was resisted by the respondents. Following issues were framed by the learned Tribunal:-

1. Whether the accident in question took place on 22.03.2013 in the area of P.S. Taraori on account of rash and negligent driving of truck bearing No. HR69-A-3681 being driven in rash and negligent manner by respondent No. 1 resulting into death of Sajjan Kumar ? OPP
2. If issue no. 1 is proved, whether the claimants are entitled to any compensation, and if so how much and from whom? OPP.
3. Whether the claim petition is not legally maintainable in the present form? OPR
4. Whether the claimant has got no locus standi and cause of action to file the present petition? OPR
5. Whether respondent No. 1 was not holding a valid and effective driving licence on the alleged date of accident? OPR
6. Relief.

Learned Tribunal on consideration of the facts and evidence on record held that the accident in question took place on 22.03.2013 due to rash and negligent driving of the offending Truck bearing registration No. HR69-A-3681 by respondent No. 1. Learned Tribunal awarded a sum of

₹12,19,000/- with interest at the rate of 9% per annum from the date of filing of the claim petition till date of actual realisation of the award. Income of the deceased was assessed as ₹21,000/- per month. Deduction of 50% was effected, keeping in view the number of dependants. Multiplier of 9 was applied as the deceased was 56 years old at that time. Sum of ₹25,000/- was awarded on account of funeral expenses and ₹1,00,000/- towards loss of consortium.

Aggrieved of the quantum of compensation, claimant - widow has filed this appeal.

Learned counsel for the appellant submits that there is no dispute regarding the income of the deceased assessed as ₹21,000/- by the learned Tribunal. It is submitted that in terms of the judgment of the Hon'ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009**, loss of future prospects at the rate of 10% should be afforded. It is further submitted that the learned Tribunal has wrongly held the deceased to be 56 years old at the time of his death. As per the Pan Card of the deceased (Ex.P1), date of birth of Sajjan Kumar (deceased) was 10.07.1957, therefore, on the date of accident i.e. 22.03.2013, the deceased was 55 years, 8 months and 12 days old. Accordingly, multiplier of 11 instead of 9 should have been applied. Learned counsel for the appellant relies upon the judgment of the Hon'ble Supreme Court in **Shashikala and others versus Gangalakshamma and another 2015(9) SCC 150**. Learned counsel fairly states that compensation on account of loss of consortium, funeral expenses are, however, required to be reworked. It is, thus, prayed that compensation awarded to the claimant be reworked accordingly.

Learned counsel for the respondent - insurance company while refuting the arguments raised submits that adequate compensation has been awarded by the learned Tribunal which calls for no further enhancement. It is submitted that the compensation has been rightly assessed, thus, impugned award dated 29.04.2016 be upheld.

Heard learned counsel for the parties.

There is no dispute that Sajjan Kumar lost his life in a motor vehicle accident, which took place on 22.03.2013 caused due to the rash and negligent driving of Truck bearing registration No. HR69-A-3681 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality.

There is further no dispute that as per the Pan Card of the deceased (Ex.P1), his date of birth was 10.07.1957, therefore, on the date of accident, he was 55 years, 8 months and 12 days old. In the case of Shashikala (supra), the deceased was 45 years, 5 months and 28 days old as on the date of the accident. The Hon'ble Supreme Court observed that the age of the deceased should be taken as 45 years.

Keeping in view the above, in the present case, age of the deceased Sajjan Kumar has to be taken as 55 years. Therefore, multiplier of 11 instead of 9 is to be applied in view of the guidelines laid down by the Hon'ble Supreme Court in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another** 2009 (3) RCR (Civil) 77. There is no dispute regarding the income of the deceased to be ₹21,000/- per month as assessed by the learned Tribunal. In view of the guidelines of the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), increase on account of future prospects at the rate of 10% (₹2100/-) is afforded in view of the age of the deceased (55 years), which takes the income of the deceased to

₹23,100/- per month. In view of laid down by the Hon'ble Supreme Court in case of **Sarla Verma** (supra), deduction of 50% is to be applied thereby rendering income of the deceased to be ₹11,550/-. Applying a multiplier of 11, dependancy of the claimants is, therefore, assessed as ₹15,24,600/- (₹11550x12x11). The claimants are also entitled to ₹40,000/- (instead of ₹1,00,000/-) on account of loss of consortium, ₹15,000/- (instead of ₹25,000/-) for funeral expenses and ₹15,000/- for loss of estate. Claimant is, thus, entitled to total compensation of ₹15,94,600/- detailed as under:-

Loss of dependency (₹11550x12x11)	₹15,24,600/-
Loss of consortium	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹15,94,600/-

The amount of compensation already awarded to the appellant, needless to say, shall stand deducted from the amount calculated as above. Appellant shall be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the petition till realization.

With the abovesaid modification in the amount of compensation, present appeal is disposed of.

September 18, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No