

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

FAO No. 689 of 2002 (O&M)
Date of decision: 13.12.2019

Harjinder Kaur and others

...Appellants

Versus

Mangal Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sanjeev Sharma, Advocate,
for the appellants.

Mr. R.C. Kapoor, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

1. This appeal seeks to challenge the award dated 29.5.2001 passed by the Motor Accident Claims Tribunal, Hoshiarpur, whereby the appellants herein have been allowed compensation of ₹1,56,000/- on account of death of Jarnail Singh.

2. In brief, the facts are that on 9.8.1998, deceased Jarnail Singh, along with one Parshotam Ram, was going from Garhshankar to their village Rampur Bilon on a scooter bearing registration No. PB-07-B-3424, being driven by Parshotam Ram. When they reached near Gurdwara Garshankar, a truck bearing registration No. PB-09-1375, being driven by respondent No.1 in rash and negligent manner struck against the scooter. The impact of the accident was such that Jarnail Singh died on the spot on account of the injuries received by him. Consequently FIR 103 dated

9.8.1998 under Sections 304-A, 279, 337 IPC came to be lodged with the Police Station Garhshankar. On account of the death of Jarnail Singh, a claim petition was filed by the widow, mother, father and the minor daughter of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was working as dairy owner and used to earn ₹8,000/- per month.

3. The claim petition was contested by the respondents. It was contended by the Insurance Company that the driver of the truck was not having a valid driving licence and as such, the Insurance Company is not liable to indemnify any liability arising out of the accident. Issues were framed and thereafter evidence was led by the parties in order to substantiate their respective claims.

4. After scrutiny of the evidence brought on record, the Tribunal held that the accident was the result of rash and negligent driving of respondent No.1. It was also held that respondent No.1 was not holding a valid driving licence on the date of accident. The Tribunal further held that the deceased was 36 years old and since no documentary evidence was produced regarding the income of the deceased, the Tribunal treated him as a labourer and assessed his income as ₹1500/- per month, deducted 1/3rd towards his personal living expenses and after applying multiplier of 13, awarded compensation of ₹1,56,000/-. However, the liability to pay the compensation was fastened on the driver and owner of the offending vehicle, as it was held that the driver of the truck was not having a valid driving licence.

5. Learned counsel for the appellants submits that the amount of

compensation awarded by the Tribunal is on the lower side and as such the same deserves to be enhanced. It is submitted that the Tribunal has not properly considered the evidence produced by the claimants with regard to the income of the deceased from the dairy farming and has assessed his income at ₹1,500/- per month. It is further submitted that the Tribunal has not awarded any amount on account of future prospects and under other conventional heads. It is also submitted that multiplier of 15 ought to have been applied instead of 13 as the deceased was 36 years of old.

6. None has put in appearance on behalf of respondents No. 1 and 2. However, learned counsel appearing on behalf of respondent No. 3 submits that since respondent No. 1 was not able to prove that he was holding a valid driving licence on the date of accident, therefore, no liability to pay the compensation could be fastened on the insurance company, as already held by the Tribunal.

7. The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 36 years of age and was earning ₹1,500/- per month. While scrutinizing the evidence produced to prove the income of the deceased, the Tribunal observed as under:-

“No doubt, both Harjinder Kaur and Jeet Singh have alleged that deceased was earning about Rs. 8000/- per month from the dairy business. However, no documentary evidence is forthcoming on the file to prove the income of Jarnail Singh deceased. Jarnail Singh may be considered as a labourer and a labourer in Punjab can earn Rs. 1500/- per month.”

8. From the evidence so produced, it is evident that the claimants were not able to establish on the record that the deceased was earning

₹8,000/- per month and thus the Tribunal has rightly taken the income of the deceased at ₹1,500/- as a labourer. In view the fact that the age of the deceased was taken as 36 years and as such multiplier of 15 would be applied. Apart from that, increase in income on account of future prospects at the rate of 40% and other conventional heads are required to be reckoned, keeping in view the judgment of the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) R.C.R. (Civil) 1009**. Therefore, compensation payable to the appellants is re-worked and tabulated as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Jarnail Singh
(ii)	Date of accident	9.8.1998
(iii)	Age of the deceased	36 years
(iv)	Monthly income of the deceased	₹ 1,500/-
(v)	40% of (iv) is to be added towards future prospects	(₹ 1500+₹600)= ₹ 2100/- per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹ 2100-₹700) = ₹ 1400/- per month
(vii)	Compensation calculated after applying the multiplier of 15	(₹1400X12X15) = ₹ 2,52,000/-
(viii)	Funeral expenses	₹ 15000
(ix)	Compensation for loss of consortium	₹ 40000
(x)	Compensation for loss of estate	₹ 15000
Total		₹3,22,000

9. It is to be noted that the Tribunal has also awarded compensation to the father of the deceased, namely Jeet Singh—appellant No.3. It is settled law that the father cannot be dependent on the son. Therefore, he would not be entitled to any compensation.

10. As a sequel of my discussion above, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the appellants 1,2, and 4/claimants shall be ₹3,22,000/- and the amount in excess over what was awarded will also attract interest @7.5% from the date of the petition till the date of payment. The Tribunal had allowed 15% of the compensation to the father of the deceased. However, since this Court has held that the father would not be entitled to any compensation, the entire increase will be distributed amongst the appellants in the ratio of 50:35:15%. However, the liability as fastened by the Tribunal on the respondents No. 1 and 2 is affirmed.

13.12.2019

prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No