

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

FAO-1314-1992(O&M)

Date of decision:-26.2.2019

Surji Devi and others

...Appellants

Versus

Krishan Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Ajay Jain, Advocate
for the appellants.

None for the respondents.

H.S. MADAAN, J.

Briefly stated, facts of the case are that one Chhote Lal aged about 30 years, statedly running a vegetable shop and earning Rs.3,000/- per month died in a motor vehicular accident, which took place on 14.12.1989 in the evening in the area near Shiv Theater, allegedly on account of rash and negligent driving of bus No.RNP-2741 belonging to Rajasthan State Road Transport Corporation, Jaipur by respondent No.1 Krishan Singh.

Petitioners – Surjit Devi – wife, Ashok Kumar – son, Saroj, Rajbala, Sushila, Mamta – minor daughters, Nathu Ram – father and Janki - mother of Chhote Lal, had brought a claim petition under Sections 116 and 140 of the Motor Vehicles Act, 1988 against respondents i.e. Krishan Singh – driver, Rajasthan State Road Transport Corporation, Jaipur and

Rajasthan State through Secretary Department of Transport, Rajasthan, Jaipur – owners of bus bearing registration No.RNP-2741 (hereinafter referred to as offending bus) claiming compensation on account of death of Chhote Lal in a mishap.

After contest that claim petition was accepted and compensation of Rs.2,11,200/- was awarded to the petitioners/claimants payable by respondents by Motor Accidents Claims Tribunal, Rewari vide award dated 27.5.1992.

This award left the claimants aggrieved and they have approached this Court by filing the present appeal seeking enhancement of the compensation.

Notice of the appeal was given to respondents. Respondents No.2 and 3 had appeared initially through counsel but subsequently there was no representation on their behalf.

I have heard learned counsel for the appellant besides going through the record.

The accident in question relates to year 1989. The deceased was aged about 30 years, though his age was mentioned to be 35 years in the post-mortem report, stated to be a vegetable seller, and earning Rs.2,500/- per month as mentioned in the claim petition and Rs.3,000/- per month as claimed during the evidence adduced by the claimants, his income was taken to be Rs.1,800/- - 1,900/- per month by the Tribunal. Considering the number of dependents upon him after taking into view the expenses, which the deceased might have incurred for himself, the dependency of claimants was taken to be Rs.1,100/-.

The Tribunal had taken the monthly income of deceased to be Rs.1,900/- per month. In view of the ratio of authority **National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009**, in such an eventuality 40% of the amount is to be added towards future prospects. Doing that the monthly income of the deceased is taken as $\text{Rs.1,900} + 760 = \text{Rs.2,660/-}$.

In terms of the ratio of authority **Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr., 2009(3) RCR(Civil)77** where the number of dependent family members exceeds six, deduction towards self-expenses is to be taken as 1/5th. In this case the Tribunal has deducted 1/3rd of the amount towards self expenses instead of 1/5th. Doing that the dependency of claimants comes out to Rs.2,128/- per month, annual dependency comes out to $\text{Rs.2,128} \times 12 = \text{Rs.25,536}$.

The Tribunal has used multiplier of 16, which keeping in view the age of the deceased has been properly used. Doing that the compensation payable comes out to $\text{Rs.25,536} \times 16 = 4,08,576/-$.

In view of the ratio of authority **National Insurance Company Limited Versus Pranay Sethi and Ors.**(supra), the claimants are entitled to get compensation under conventional heads i.e. Rs.15,000/- on account of loss of estate, Rs.40,000/- towards loss of consortium and Rs.15,000/- as funeral expenses, total Rs.70,000/-. The total compensation comes out to $\text{Rs.4,08,576} + 70,000 = 4,78,576/-$.

The Tribunal has awarded compensation of Rs.2,11,200/-.

In this way, the enhanced amount comes out to Rs.2,67,376/-

(4,78,576 - 2,11,200). The claimants would be entitled to get interest @ 7.5% per annum from the date of filing of the appeal till actual realization on the enhanced amount of Rs.2,67,376/-. The other terms and conditions given in the award shall apply to the enhanced amount as well.

With such modification, the appeal is allowed partly with costs.

26.2.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No