

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1332-2001(O&M)
Date of decision: 06.05.2019

Smt.Sharanjit Kaur and others

.....Appellants

versus

Dharam Pal and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.A.S.Gill, Advocate for the appellants
Mr.Paul S. Saini, Advocate for respondent no.3
Mr.Ramesh Kumar Ambavta, AAG Haryana
for the respondent no.4

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

This is appeal filed for enhancement of compensation against award dated 4.11.2000 passed by Motor Accident Claims Tribunal, Jalandhar for short, ('the Tribunal'), vide which, claim petition was allowed and compensation to the tune of Rs.7,33,656/- was allowed to the claimants-appellants in equal shares. Respondent nos.1, 3 and 6 were to bear the liability to the tune of half and remaining half was to be borne by respondent nos.4 and 5. All the respondents were made jointly and severally liable to pay the compensation. 12% per annum interest from the date of application till realization was also allowed.

On 28.2.1996 at about 7.00 a.m., Dilbagh Singh Gill along with

his brother-in-law Gian Singh, Kanwaljit Kaur- sister and other family members left for New Delhi from Jalandhar in Matador bearing Registration Number GJ-IV-2659, being driven by Dharam Pal respondent no.1. When the Matador reached near village Machhonda it hit the left side of the Bus bearing Registration Number HR-37-1263, being driven by respondent no.5, belonging to respondent no.4, from the opposite side in a rash and negligent manner. As a result of which, Dilbagh Singh Gill, Gian Singh and his minor son Jagbir Singh died.

Present claimants-appellants are the mother, widow and children of the deceased Dilbagh Singh Gill. Claimants-appellants claimed compensation to the tune of Rs.30 lakhs. The petition was contested by the respondents, who denied the accident. Both the drivers blamed each other for the fault. Insurance company also contested the liability.

From the pleadings, following issues were framed:-

- 1. Whether Dilbag Singh had died due to the accident of Matador No.GJ/IV/2659 and Bus No.HR-37-1263? OPA*
- 2. Whether the accident dated 28.2.96 in which Dilbag Singh died was caused due to the rash and negligent driving of bus No.HR-37-1263? OPA*
- 3. If issue No.2 is not proved, whether the accident took place due to rash and negligent driving of the driver of the Matador No.GJ-IV-2659? OPA*
- 4. Whether the driver of the Matador Dharam Pal was not holding a valid driving licence OPR3.*
- 5. Whether the claimants are the legal representatives of deceased Dilbagh Singh? OPA*
- 6. Whether the petitioners are entitled to compensation? IF so, to what extent and from whom? OPA*
- 7. Relief.*

The Tribunal found that both the drivers of Matador and bus

were negligent. Therefore, they were held equally liable to pay the compensation. After considering the income of the deceased, compensation to the tune of Rs.7,33,656/- was granted, as stated above. Claimants-appellants are not satisfied with the said compensation.

I have heard learned counsel for the parties and have also carefully gone through the file.

Before this Court, the appeal has been pressed only on the point of quantum of compensation. Therefore, I proceed to redetermine the same. Deceased Dilbagh Singh Gill was a Professor in Guru Nanak National College, Nakodar, District Jalandhar, Punjab. His age was 48 years at the time of accident. He was getting salary of Rs.10,078/- per month. He was paying Rs.1733/- per month as income tax. In this way, his net income will come to Rs.8345/-. Considering his age 48 years, 33% is to be added as income for future prospects, which comes to Rs.2503/-. Total income will come to Rs.10848/-. Since, there were five dependents, therefore, 1/4th will be deducted as personal expenses, which comes to Rs.2712/-. The effective income comes to Rs.8136/-. Considering the age of 48 years, multiplier of 13 is to be applied. Amount of compensation comes to Rs.8136/-x12x13 + Rs.12,69,216/-. Rs.70,000/- under the conventional head i.e. last rites ceremony, loss of consortium and loss of estate are allowed. Total amount of compensation comes to Rs.13,39,216/-. In view of Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram, 2018(4) R.C.R. (Civil) 333, Rs.40,000/- each also allowed to three minors daughters and son of the deceased, as consortium, which comes to Rs.1,20,000/-. Therefore, the total amount of compensation comes to Rs.14,59,216/-.

Liability shall remain same as fixed by the Tribunal. 7% per annum interest

is also allowed on the enhanced compensation from the date of filing of claim petition till realization.

Appeal is accordingly allowed.

06.05.2019
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No