

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

FAO-3778-2011(O&M)

Date of decision:-18.7.2019

Ajit Singh and another

...Appellants

Versus

Jaswinder Singh and another

...Respondents

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

Present: Ms.Ekta Thakur, Advocate
for the appellant.

Mr.Vipul, Advocate for
Mr.Paul S. Saini, Advocate
for respondent No.2.

H.S. MADAAN, J.

Briefly stated, facts of the case are that on 8.2.2009, Amninder Singh was going from Chandigarh to Damdama Sahib, Gurudwara in an Indica Car bearing registration No.CH-03-Z-2400 along with his sister Ramandeep Kaur and mother Smt.Patwant Kaur; that the car was being driven at a normal speed and on correct left hand side; that at about 6:15 a.m., when the car reached near Gagan Chowk, Rajpura, in the meantime, a truck bearing registration No.HR-37-B-6131(hereinafter referred to as the offending vehicle) being driven by respondent No.1 – Jaswinder Singh in a rash and negligent manner came from Ambala side and struck against a standing bus, resultantly the bus abruptly turned towards right hand side and came on footpath striking against the Indica

car in question; that the car was sandwiched between the truck and bus; that the occupants of the car suffered multiple injuries; that Amninder Singh was taken to a hospital at Rajpura, where he was declared brought dead; that the driver of the car had also died, whereas Smt.Patwant Kaur and Ramandeep Kaur suffered injuries; that formal FIR with regard to the accident was recorded.

The parents of deceased Amninder Singh, namely, his father – Sh.Ajit Singh, aged about 50 years and mother – Smt.Patwant Kaur, aged about 52 years had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents i.e. Jaswinder Singh – driver and owner and United India Insurance Company – insurer of the offending vehicle, claiming compensation.

Smt.Patwant Kaur and Ramandeep Kaur, who had suffered injuries in the accident had also filed separate claim petitions.

According to the version of the claimants in MACT Petition No.100 of 21.2.2009, deceased Amninder Singh was aged about 22 years at the time of his death; he was student of M.Sc. Final Semester (Honours) Chemistry, Punjab University, Chandigarh; that besides being brilliant throughout in his education career, he was active in extra-curricular activities and had won many awards; that he had completed computer training course by securing first position in the year 1999-2000 with 'A' Grade; that he had also completed Modules BCC, DOS and Word Star by securing 70% marks and if he had not not died in the accident at the prime youth of his life, he would have become an eminent scientist; that the claimants being educated, resourceful and at high position, had financial

capacity to meet such expenses for higher education of the deceased.

Notice of the claim petition was issued to the respondents, who put in appearance and filed written statements contesting the claim petitions. Issues on merits were framed. The parties were afforded adequate opportunities to lead evidence.

After hearing arguments, the claim petitions were allowed partly by the Tribunal vide award dated 16.2.2011. Petitioners Ajit Singh and Patwant Kaur, who had filed Claim Petition No.100 of 21.2.2009 were awarded compensation of Rs.3,40,000/- along with interest at the rate of 9% per annum from the date of filing of the petition till the date of award payable by both the respondents jointly and severally. Respondent No.2 was directed to pay the amount of compensation to the claimants within 30 days of the receipt of copy of award failing which the claimants would be entitled to recover interest @ 9% per annum on the amount of award from the date of award till realization. The manner in which the compensation is to be apportioned was also given in the award.

Claimants Ajit Singh and Patwant Kaur were dissatisfied with the compensation awarded to them and they have filed the present appeal before this Court seeking enhancement of compensation.

Notice of the appeal was issued to the respondents. Initially respondent No.1 was appearing through counsel but subsequently there was no representation on his behalf. However respondent No.2 – insurance company appeared through counsel.

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

The Tribunal has taken notional income of the deceased Amninder Singh to be Rs.5,000/- per month. However, considering his academic qualifications, I find that this amount is somewhat on the lower side.

Learned counsel for the claimants has referred to authority **Chief Works Manager, Southern Railway Carriage Works Versus V. Manimekalai, 2015(88) RCR(Civil) 653**, where in a similar case, it was observed that academic record and pursuit of deceased to achieve a Doctorate Degree in Mechanical Engineering at young age have to be considered for fixing income and that 'Education' should be given due respect and Rs.20,000/- was taken as monthly income of the deceased.

In the present case, I find that considering all facts and circumstances, it would be proper and appropriate to take monthly income of deceased to be Rs.15,000/-.

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 the deceased is bachelor, 50% deduction towards personal expenses should be made. Doing that the dependency of claimants comes out to Rs.7,500/- per month, annual dependency comes out to Rs.7,500 x 12 = Rs.90,000/-.

The Tribunal has fell in error in using multiplier of 11 considering the age of claimants, whereas in view of the authority **National Insurance Company Limited Versus Pranay Sethi and Ors., 2017(4) RCR(Civil)1009**, the age of the deceased is to be taken into consideration.

Keeping in view the age of deceased and in view of judgment *Smt. Sarla Verma and others (supra)*, a multiplier of 18 is required to be applied. Doing that the compensation payable comes out to Rs.16,20,000/-(90000 x 18). The claimants are entitled to get Rs.15,000/- as funeral expenses and Rs.15,000/- more on account of loss of estate. The total compensation payable is worked out to Rs.16,50,000/- (16,20,000 + 30000).

Thus finding on issue No.2 is modified accordingly.

The Tribunal has awarded compensation of Rs.3,40,000/- along with interest as mentioned in the relief clause payable by both the respondents jointly and severally. The same is enhanced to Rs.16,50,000/-. The claimants would be entitled to get interest @ 7.5% per annum from the date of filing of the claim petition till actual realization of the amount of Rs.16,50,000/-, payable by both the respondents jointly and severally. The amount of compensation shall be apportioned among both the claimants in equal shares.

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

18.7.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No