

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

FAO No. 5246 of 2011 (O&M)

Date of decision : March 19, 2019

Seema and others

.....Appellants

Versus

Anil Kumar and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Arvind Kumar Yadav, Advocate
for the appellant.

Ms. Vandana Malhotra, Advocate
for respondent No. 3.

LISA GILL, J.

Present appeal has been filed by the claimants for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Rewari (hereinafter referred to as the 'Tribunal') on account of death of Vijay Singh vide award dated 25.05.2011.

Brief facts necessary for adjudication of the case are that the claimants i.e. widow, two minor children and mother of the deceased filed a petition under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Vijay Singh on 21.08.2010 in a motor vehicle accident caused due to rash and negligent driving of the offending vehicle, Mahendra pick up vehicle bearing registration No. HR-32GA-0409 by respondent No.1.

Learned Tribunal on consideration of the facts and evidence on record held that Vijay Singh died in the the accident which took place on 21.08.2010 due to rash and negligent driving of the offending Mahendra pick up vehicle bearing registration No. HR-32GA-0409, by respondent No.

1. Learned Tribunal awarded a sum of ₹5,47,600/- with interest at the rate of 6% per annum from the date of filing of the claim petition till the date of actual realisation of the award. Learned Tribunal assessed income of the deceased as ₹4,800/- per month while ignoring the evidence of PW4 Satender Yadav and other documents produced on record to prove that the deceased was earning a sum of ₹10,000/-. Deduction of 1/3rd was effected, keeping in view the number of dependants. Multiplier of 14 was applied as the deceased was 41 years old at that time. A sum of ₹10,000/- on account of funeral expenses was awarded.

Aggrieved of the quantum of compensation, claimants have filed this appeal.

Learned counsel for the appellants submits that the learned Tribunal has wrongly ignored the evidence on record, which proves that the deceased was earning a sum of ₹10,000/- per month. Income of the deceased should, accordingly, be assessed. It is further submitted that increment on account of future prospects should be afforded. Compensation under the conventional heads, it is stated, is meagre. It is, thus, prayed that compensation awarded to the claimants be reworked accordingly.

Learned counsel for the respondent - insurance company submits that just and reasonable compensation has been awarded by the learned Tribunal, which calls for no further enhancement. It is, thus, prayed that impugned award dated 25.05.2011 be upheld.

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

There is no dispute that Vijay Singh lost his life in a motor vehicle accident, which took place on 21.08.2010 caused due to the rash and

negligent driving of Mahendra pick up vehicle bearing registration No. HR-32GA-0409 driven by respondent No.1. Finding of the learned Tribunal on this issue has attained finality. It is a matter of record that the deceased was 41 years old at the time of the accident. The claimants have examined PW4 Satender Yadav to prove that the deceased was employed as driver with M/s Vishal Earth Movers. PW4 Satender Yadav stated that he is the owner of M/s Vishal Earth Movers and Vijay Singh was working with their concern from 15.03.2010 as a driver on a salary of ₹10,000/-. Original salary certificate (Ex.PW4/1) was proved by him alongwith original ledger of the salary and certified copy of the same (Ex.PW4/2) besides a copy of the attendance register (Ex.PW4/3).

I have perused the record alongwith the said documents as well as statement of PW4 Satender Yadav. Evidence on record indeed proves that the deceased was working as a driver with M/s Vishal Earth Movers earning a salary of ₹10,000/- per month. In the copy of the attendance register (Ex.PW4/3), salary of the deceased is mentioned as ₹10,000/-. It is further mentioned that advance of ₹2,800/- had been taken. The balance amount of ₹7,200/- is thereafter is reflected to be paid on 18.05.2010. PW4 Satender Yadav, the owner of M/s Vishal Movers has specifically deposed in this respect and has proved the relevant documents. There is no palpable reason on record to discredit the said evidence. Income of the deceased is, thus, assessed as ₹10,000/- per month. In view of the guidelines of the Hon'ble Supreme Court in the case of National Insurance Company Limited versus Pranay Sethi and others 2017 (4) RCR (Civil) 1009, increase on account of future prospects at the rate of 25% (₹2500/-) is afforded, as the deceased was 41 years old at the time of accident, which

takes income of the deceased to ₹12,500/- per month. In view of the guidelines laid down by the Hon'ble Supreme Court in case of Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, deduction of 1/4th instead of 1/3rd is to be applied as number of dependants is four (4), thereby rendering income of the deceased to be ₹9,375/-(12500-3125). Applying a multiplier of 14, dependency of the claimants is assessed as ₹15,75,000/- (₹9375x12x14). The claimants are entitled to ₹15,000/- each towards funeral expenses (instead of ₹10,000) and loss of estate. Appellant No. 1/widow of the deceased is entitled to ₹40,000/- on account of loss of spousal consortium. Appellants No. 2 and 3 are entitled to ₹40,000/- for loss of parental consortium. Appellant No. 4 is entitled to a sum of ₹40,000/- for loss of filial consortium. Reference in this respect can gainfully be made to the judgment of the Hon'ble Supreme Court in Magma General Insurance Company Limited versus Nanu Ram Alias Chuhru Ram and other 2018 (4) RCR (Civil) 333 and decision dated 14.03.2019 of this Court in FAO No. 2110 of 2016 and other connected matters.

Claimants are, thus, entitled to total compensation of ₹17,25,000/- detailed as under:-

Loss of dependency (₹9375x12x14)	₹15,75,000/-
Loss of spousal consortium	₹40,000/-
Loss of parental consortium to appellants No. 2 and 3	₹40,000/-
Loss of filial consortium to appellant No. 4	₹40,000/-
Loss of estate	₹15,000/-
Funeral expenses	₹15,000/-
Total	₹17,25,000/-

The amount of compensation already awarded to the appellants, needless to say, shall stand deducted from the amount calculated as above.

Appellants shall be entitled to interest at the rate of 7.5% (instead of 6% per

annum) on the entire awarded amount from the date of filing of the petition till realization.

Apportionment of amount of compensation amongst claimants shall be in the same ratio as fixed by the learned Tribunal. Directions of the Tribunal in respect to manner of disbursement of compensation amount to the claimants shall enure.

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

March 19, 2019
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No