IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209 **FAO-4599-2012 (O&M)**
Date of Decision: 29.03.2019

Asha Devi and others ... Appellants

Vs.

Kartar Singh Randhawa and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr.B.S.Jaswal, Advocate
for the appellants.

Mr. M.B.Jain, Advocate
for respondent No.3.

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Amol Rattan Singh, J (Oral)

By this appeal, the claimants seek enhancement of the compensation of Rs.6,42,500/- awarded to them vide the impugned Award dated February 02, 2012, made by the learned Motor Accident Claims Tribunal, Amritsar.

The claim petition filed by the appellants was on account of the unfortunate death of Vinodh Rai in a motor vehicle accident on 13.01.2010 at about 3.30 p.m., when he was stated to be travelling on a bicycle, with one Vijay Kumar sitting behind him on the carrier thereof.

The bicycle is stated to have been hit by a Maruti Car bearing registration No.PB-11-AH-0779 driven by respondent No.2 herein, the car being in the ownership of respondent no.1, it having been insured by respondent no.3.

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The learned Tribunal having found respondent no.2 herein to be guilty of negligence in causing the accident, that finding is not under challenged by way of any appeal filed by the respondents.

Consequently, the finding on that issue, as returned by the learned Tribunal, need not be gone into by this Court.

However, the issues framed upon the pleadings of the parties are reproduced hereunder :-

> *"1) Whether Vinodh Rai, died in a motor accident, caused by the rash and negligent driving of motor car i.e. Alto by its driver respondent No.2, Harpreet Singh, on 13.01.2010 at 3.30 p.m., in the areas of village Umra Nangal? OPA*
>
> *2) Whether claimants are entitled to compensation, if so, to what amount and from whom? OPA*
>
> *3) Whether the driver of the offending vehicle i.e. respondent No.2, Harpreet Singh, was not holding a valid and effective driving licence at the time of accident? OPR*
>
> *4) Relief."*

The respondent-insurance company also not having been able to prove any violation of the policy, issue no.3 was decided against it, which finding again not being under challenge, is not required to be looked into by this Court.

Coming to the question of whether the appellants were granted adequate compensation in terms of law settled, or not, it is seen that the case of the appellants was the the deceased Vinodh Rai was working as a labourer earning Rs.8,000/- per month, with that figure however not accepted by the learned Tribunal. Instead, it was held that as a casual

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labourer earns Rs.150/-to Rs.200/-per day, the monthly income would be taken to be Rs.4500/- per month (or Rs.54,000/- per annum).

The number of claimants being six, that is the present appellants who are seen to be the widow, four minor children and mother of the deceased, a deduction of 1/4th was applied on that income, towards the personal expenses of the deceased (had he remained alive), the loss of annual income to the appellants/claimants therefore coming to Rs.40,500/-.

The deceased having been accepted to be 40 years of age, as per the postmortem examination report (Ex.P8), which in any case was the age claimed in the claim petition also, a multiplier of 15 was applied in terms of the ratio of the judgment in ***Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC 121,*** thereby coming to a loss to the appellants of a dependent income of Rs.6,07,500/-.

To that sum Rs.10,000/- was added by way of loss of consortium, and Rs.5,000/-each towards funeral expenses and loss of estate.

Another amount of Rs.15,000/- was awarded by way of medical expenses, the deceased having remained admitted in hospital for one day and bills of medicines purchased etc. having been duly produced by way of evidence, in the form of Exs. A1 to A6 before the Tribunal.

Consequently, a total compensation of Rs.6,42,500/-was awarded, upon which interest @ 6% per annum was also awarded, running from the date of filing of the claim petition till the date of realisation of the awarded amount.

Mr. Jaswal, learned counsel for the appellants, submits that though as regards the compensation calculated as per the income assessed, there would be no grievance, however, firstly, the amounts of Rs.10,000/-,

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Rs.5,000/- and Rs.5,000/- awarded towards loss of consortium, funeral expenses and loss of estate respectively, the same are highly inadequate even in terms of the ratio of the judgment of the Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors., AIR 2017 SC 5157.***

He further submits that no amount whatsoever has been awarded to the appellants towards loss of future prospects of an increased income, again in terms of the ratio of the aforesaid judgment.

Mr. Jain, learned counsel appearing for the insurance company fairly could not refute the fact that in terms of the ratio of the judgment of the Constitution Bench in the aforesaid case, some amount has to be awarded towards loss of future prospects of an increased income, which is 25% of his income in the case of a self employed person who died between the age of 40 to 50 years. Similarly, an amount of Rs.40,000/-is to be awarded towards loss of consortium, Rs.15,000/- towards funeral expenses and last rites and Rs.15,000/- towards loss of estate.

That being so, which of course is in terms of the ratio of the aforesaid judgment, the amount of compensation towards loss of income to the appellants, i.e. Rs.6,07,500/- is to be increased by 25%, thereby coming to a sum of Rs.7,59,375/-.

To that amount a sum of Rs.70,000/-is to be added under the three “conventional heads” mentioned herein above, with the amount awardable thereafter coming to Rs.8,29,375/-.

Again, Rs.15,000/- is to be added as was awarded by the Tribunal towards the medical expenses incurred before the deceased died. Hence the total amount of compensation awardable to the appellants comes to Rs.8,44,375/-.

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The said amount is accordingly awarded by way of compensation to the appellants, with interest @ 6% per annum as was awarded by the Tribunal, running on the said amount, from the date of filing of the claim petition till the date of realisation of the amount.

Thus what has been awarded by this Court is Rs.2,01,875/- more than what was awarded by the Tribunal.

The appeal is allowed in the aforesaid terms.

No order as to costs.

(AMOL RATTAN SINGH)
JUDGE

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

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