

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

FAO No.2132 of 2015
Decided on:03.04.2019

Rajkur and another

.....Appellants

versus

Satpal and others

....Respondents

CORAM : HON'BLE MR.JUSTICE DR.RAVI RANJAN

Present: Mr.Tarun Dhingra, Advocate,
for the appellants.

Mr.Ram Avtar, Advocate,
for respondent no.3-Insurance Company.

DR.RAVI RANJAN, J. (Oral)

I have heard learned counsel for the parties.

This appeal has been filed for enhancement of the awarded amount by the Motor Accident Claim Tribunal, Jind, pursuant to the claim application filed under Section 166 of the Motor Vehicles Act, 1988.

1. The son of the applicants Kuldeep Singh alongwith one Krishan Kumar was returning from Narwana to their village Kharal on 05.08.2013 on a motor cycle bearing Registration No.HR-32-F-1753 which was being driven by the deceased at a normal speed and observing the traffic rules. Krishan Kumar was the pillion rider. At about 9.00 p.m. a truck bearing Registration No.PB-13-S-9785 (hereinafter to be referred to as 'offending truck') being driven by respondent no.1 came from the opposite side and struck against the motorcycle. As a result of the accident both the occupants of the motorcycle received multiple serious and grievous injuries. The driver of the offending truck fled away from the spot alongwith the

vehicle. The injured Kuldeep Singh was taken to General Hospital, Narwana. Thereafter, he was got admitted in Sarvodya Hospital, Hisar, where he succumbed to the injuries on 08.08.2003.

It is claimed that accident took place due to rash and negligent driving of respondent no.1, i.e. the driver of the offending truck for which FIR was also lodged, accordingly, the claim of compensation was made.

2. In response to the notice, the driver and owner of the truck appeared through their counsel and contested their petition by filing their written statement taking a stand that no accident took place with the truck bearing Registration no.PB-13-S-9785.

The respondent no.3-Insurance Company, the insurer of the offending truck also contested the claim by filing a written statement.

3. On the basis of pleadings of the parties the Tribunal framed following issues:

1. Whether the accident in question was caused by respondent no.1 Satpal while driving truck bearing registration No.PB-13-S-9785 in rash and negligent manner causing the death of Kuldeep Singh son of Ram Cahnder as alleged?OPP
2. Issue no.1 and 2 is prove, whether the petitioners are entitled to any compensation and if so what extent and from whom?OPP
3. Whether the driver of truck No.PB-13-S-9785, i.e. respondent no.1 Satpal was not holding a valid and effective driving licence on the date of accident?OPR-3
4. Relief

4. The issues have been decided in favour of the claimants/applicants holding that the accident was due to the rash and negligent driving of the driver of the offending truck, i.e. respondent no.1 of the claim application and as such the claimants are entitled for compensation. The monthly income, in the absence of any evidence regarding the income, was taken to be Rs.6,000/- per month being the

minimum wage admissible to a casual workman. Since the deceased was unmarried, one-half of his aforesaid income was deducted from his personal expenses.

5. Learned counsel for appellants does not raise any objection regarding fixing Rs.6,000/- per month as income but it is stated multiplier has been chosen at a lower side, and future prospects and loss of consortium has not been granted.

It appears that the Tribunal has considered annual dependency of Rs.36,000/- and after multiplying by the multiplier of 17 the amount came to Rs.6,12,000/- which was found payable to the claimants. Rs.1 Lakhs has been given towards medical expenditure as the deceased remained admitted for few days in the hospital. Rs.50,000/- was awarded towards love and affection besides Rs.5,000/- towards loss of estate. Thus, the claimants have been found entitled for total compensation amount of Rs.7,97,000.

However, in my considered opinion, as per the decision of Hon'ble Apex Court in **“Sarla Verma vs. Delhi Transport Corporation” 2009 (3) RCR (Civil) 77**, since the deceased was of the age of 23 years, the multiplier of 18 should have been chosen in place of 17. That apart in view of the decision of Constitution Bench of Hon'ble Supreme Court rendered in **“National Insurance Company Limited vs. Pranay Sethi and others” 2017 (4) RCR (Civil) 1009**, the claimants were also entitled for addition of 40% of established income under the head of future prospects.

Apart from the above Rs.40,000/- for each parents should have been allowed under the head of filial consortium as per the law laid down by the Hon'ble Apex Court in the case of **Magma General Insurance Co.Ltd.**

vs. Nanu Ram alias Chuhru Ram and others, 2018 (9) JT 195.

6. Learned counsel for the respondent no.3-Insurance Company though had tried to defend the Award of the Tribunal but he did not have any answer to aforesaid in view of the fact that the law stands well established by the pronouncements of the Hon'ble Supreme Court.

Accordingly, the Award, after considering the law down by the Apex Court in **Sarla Verma (supra)**, [**Pranay Sethi (supra)**], and **Megma General Insurance(supra)**, is modified as under:

1.	Income	-	Rs.6,000
2.	Future Prospects	-	Rs.2,400 (40% of the income)
3.	Deduction towards personal-expenses.	-	Rs.4,200 (i.e. ½ of Rs.6000+2400)
4.	Total income	-	Rs.4,200
5.	Multiplier	-	18
6.	Loss of future income	-	4200X18X12= 9,07,200/-
7.	Funeral expenses	-	Rs.15,000/-
8.	Loss of estate	-	Rs.15,000/-
9.	Loss of Filial consortium-	-	Rs.80,000/- (Rs.40,000 to each of the claimants who are parents)
	Total	-	Rs.10,17,200/-

The aforesaid total compensation amount will also carry interest at the rate of 9% per annum to be calculated from the date of filing of the claim case till its payment.

The aforesaid amount would be given both the claimants in equal share, i.e. half and half.

In the result, this appeal stands allowed and the Award passed by the Tribunal is modified to the aforesaid extent.

April 03, 2019
dharamvir

(DR. RAVI RANJAN)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes