

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

FAO 410 of 2015 (O&M)
Date of decision: 3.4.2019

Bini and others

...Appellants

Versus

Gurmeet Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Madan Pal, Advocate,
for the appellants.

Ms. Rinky Gupta, Advocate, for
Mr. Parminder Singh, Advocate,
for respondent No.1.

Mr. Abhishek Goyal, Advocate, for
Mr. Pardeep Goyal, Advocate,
for respondent No.3.

JAISHREE THAKUR, J.

The appellants seeks to assail the award dated 21.3.2014 passed by the Motor Accident Claims Tribunal, Karnal, on a claim petition filed under Section 166 of the Motor Vehicle Act, 1988, wherein the appellants herein have been allowed compensation of ₹10,95,000/- on account of death of Multan Singh.

In brief, the facts are that on 1.8.2012, deceased Multan Singh was going on his by-cycle from Namaste Chowk, Karnal to his house situated at Gaushala Road Janakpuri, Karnal and when he reached near Yellow Sapphire Hotel, he was hit by a motor cycle bearing registration HR-

40D-7260 being driven by respondent No.1 in rash and negligent manner, as a result of which, Multan Singh fell down on the road. He received grievous and serious injuries and ultimately succumbed to the injuries. It was alleged that the accident took place due to rash and negligent driving of respondent No.1 and consequently FIR 717 dated 1.8.2012 under Sections 279, 304-A IPC came to be lodged with the Police Station City, Karnal. With these averments, claim petition was filed by the widow, her children and parents of the deceased claiming they were fully dependent on the deceased for their maintenance and livelihood. It was claimed that the deceased was working as a truck driver and was earning ₹7,000/- per month.

The claim petition was contested by the respondents, inter-alia, taking preliminary objections regarding locus standi, mis-joinder and non-joinder of necessary parties, no cause of action has accrued etc. Issues were framed and thereafter evidence was led by the parties. In order to substantiate the claim, appellant No.1 herself stepped into the witness box as PW1 and tendered in evidence her affidavit Ex. PW1/A. The appellants also examined Bir Singh, as PW2, who also tendered in evidence his affidavit Ex. PW2/A. The appellants also produced on the record, Exs. P2 to P.7. On the other hand, the respondents only tendered copy of the insurance policy Ex. R1, copy of driving licence of respondent No.1 Ex. R2, copy of 'No Objection Certificate' Ex. R3 and copy of RC of motor cycle No. HR40-D-7260.

After scrutiny of the evidence brought on record, the Tribunal held that the the accident was the result of rash and negligent driving of

respondent No.1 and on assessment of the facts and evidence before it allowed compensation of ₹10,95,000/- which has been now challenged in the instant appeal.

Learned counsel for the appellants submits that the amount of compensation awarded by the Tribunal is on the lower side and as such the compensation amount awarded to the appellants deserves to be enhanced.

On the other hand, learned counsel for the respondents submits that adequate amount of compensation has been granted to the appellants and no interference is called for in the instant appeal.

I have heard learned counsel for the respective parties and find no merit in the instant appeal.

The Tribunal, after examining the evidence produced by the respective parties held that the deceased was 35 years of age and was earning ₹5000/- per month. The Tribunal deducted 1/4th towards personal expenses of the deceased. In the absence of the documentary evidence with regard to the actual income of the deceased, the Tribunal has rightly taken the income of the deceased as ₹5000/- per month. As per the minimum wages applicable for the year 2012 in the State of Haryana, it is in fact ₹4967 per month. Furthermore, the Tribunal has rightly applied the multiplier of 16 as provided in **Sarla Verma Vs. Deli Transport Corporation and others 2009 (3) PLR22.**

The Tribunal, while assessing the compensation has observed as under:-

“...In the absence of any such record, keeping in view the

occupation of the deceased, it is just and proper to assess the income of the deceased as Rs. 5000/- per month.

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In a recent judgment of Hon'ble Supreme Court in case titled **Rajesh and others Vs. Rajbir singh and others Civil Appeal No. 3860/2013 arising out of SLP (Civil) No. 24825/2010 decided on 12.4.2013** the Hon'ble Apex Court has held that in case of self employed or persons with fixed wages, in case, the deceased victim was below 40 years, there should be an addition of 50% to the actual income of other deceased while computing future prospects. Hence by applying the above case the income of the deceased is assessed as Rs. 7500/-. As per the law laid down in **Sarla Verma Vs. Sarla Verma Vs. Delhi Transport Corporation and others 2009 (3) PLR22**, 1/4th of the income of the deceased should be deducted towards his personal expenses where the number of dependent family members is 4 to 6.”

Following the law laid down in the above mentioned cases, the Tribunal assessed the income of the deceased as ₹5,000/- (although the claimants failed to brought on record any concrete evidence that the deceased was working as a driver and was earning ₹7,000/- per month), awarded 50% increase in earning towards future prospect, deducted 1/4th towards personal and living expenses of the deceased and while awarding compensation under the conventional heads, awarded total compensation of ₹10,95,00/- to

the claimants. The amount of compensation awarded is just compensation.
On a composite reading of the award, this Court does find any ground to
interfere in the amount of compensation so awarded.

Dismissed.

3.4.2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No