

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

FAO-7291-2015(O&M)

Date of decision:-16.11.2019

Rajbala

...Appellant

Versus

Sant Ram and others

...Respondents

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

Present: Mr.B.S. Tewatia, Advocate
for the appellant.

Mr.R.S. Hooda, Advocate
for respondents No.1 and 2.

Mr.Pardeep Kumar, Advocate
for respondent No.3.

H.S. MADAAN, J.

Briefly stated, facts of the case are that on account of death of Umesh @ Naresh Kumar, aged about 15 years in a motor vehicular accident, which took place on 25.3.2004 in the area of Sohna-Palwal road within jurisdiction of Police Station Sohna, statedly on account of rash and negligent driving of motorcycle bearing registration No.HR-72B-0519 by Sant Ram – respondent No.1, Smt.Rajbala widow of Jeet Ram, aged about 51 years, mother of such deceased had brought a claim

petition under Section 166 of the Motor Vehicles, 1988 Act against respondents i.e. Sant Ram – driver, Jai Parkash – owner and Universal Sampo General Insurance Co. Ltd. - insurer of the offending vehicle before Motor Accidents Claims Tribunal, Gurgaon (hereinafter referred to as the Tribunal), claiming compensation to the tune of Rs.25 lakhs along with interest.

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

After hearing arguments, the claim petition was allowed by the Tribunal vide award dated 16.5.2015 and compensation of Rs.5,25,000/- along with interest @ 9% per annum from the date of institution of petition till realization payable by all the respondents jointly and severally was awarded. The detail of the compensation awarded under various heads are as under:

Sr.No.	Heads of Claim	Amount(Rs.)
1.	Notional income	Rs.30,000/-(p.a.)
2.	Multiplier	15
3.	Loss of dependency	Rs.4,50,000/-
4.	Loss of love and affection	Rs.50,000/-
5.	Funeral expenses	Rs.25,000/-
6.	Total	Rs.5,25,000/-

However, the claimant felt aggrieved by the said award and has approached this Court by way of filing an appeal seeking enhancement of compensation awarded to her. Notice of the appeal was

issued to the respondents, who have put in appearance through counsel.

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

As per the version of the claimant, the deceased was aged 15 years having good health and was earning Rs.20,000/- per month by doing job of a milk seller; that on account of his death, the petitioner has suffered mental agony, pain and shock and she has been deprived of love and affection of her son; that she had spent a sum of Rs.50,000/- on performing last rites of the deceased.

The Tribunal, however observed that there is no convincing oral or documentary evidence on record to show that the deceased was doing any job or earning anything. He was aged about 15 years only and could not be expected to do any business especially the laborious job of dairy farming. Therefore, in absence of any cogent evidence mere bald statement of claimant Rajbala regarding income of deceased could not be relied upon. However, referring to the judgment delivered by this Court in **Satish Kumar Kalkal and others Vs. Bir Singh @ Phool Singh and others, 2013(5) RCR(Civil) 223 (P&H)** and provisions of Section 163-A of the Motor Vehicles Act, the Tribunal took notional income of the deceased to be Rs.30,000/- per annum. No deduction towards personal and living expenses of the deceased was made for the reason that his notional income had been taken. Multiplier of 15 was applied working out the dependency of the claimant to be Rs.4,50,000/-. The claimant was granted a sum of Rs.50,000/- towards loss of love and affection and Rs.25,000/- as funeral expenses, making the total compensation payable

as Rs.5,25,000/-.

I find that the amount awarded was appropriate and reasonable. The compensation can certainly be not taken to be on lower side and no case for enhancement of the same is made out.

Finding no merits in the present appeal, the same stands dismissed.

16.11.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No