

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

F.A.O. No. 556 of 2017

DATE OF DECISION :- December 03, 2019

Rekha Devi and another

...Appellants

Versus

Baljeet Singh and another

...Respondents

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

Present:- Mr. Yashveer Kharb, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for respondent No. 2.

Briefly stated the facts of the case are that on account of death of Parveen Kumar, aged about 22 years, in a motor vehicular accident, which took place on 14.9.2014 at about 5.00 A.M., in the area of near Gurudwara P.S. Rohadai, District Rewari, statedly on account of rash and negligent driving of Eicher Canter bearing registration No. HR-64-6230 by respondent No. 1 Baljeet Singh, legal representatives of deceased namely his mother Smt. Rekha Devi and brother Manoj Kumar had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against respondents i.e. Baljeet Singh-driver-cum-owner of Eicher Canter bearing

registration No. HR-64-6230 and The Oriental Insurance Co. Ltd.-insurer of Eicher Canter bearing registration No. HR-64-6230 (hereinafter referred to as the offending vehicle) for grant of compensation.

On notice, both the respondents appeared and filed written statements contesting the claim petition. Issues on merits were framed and the parties were afforded adequate opportunities to lead evidence.

On conclusion of trial, the Motor Accidents Claims Tribunal, Jhajjar vide Award dated 15.9.2016 accepted the claim petition and awarded compensation of Rs.2,50,000/- with interest at the rate of 8% per annum from the date of filing of claim petition till actual realization. The amount was ordered to be apportioned in equal shares.

The claimants were not satisfied with the compensation awarded to them by the Motor Accidents Claims Tribunal, Jhajjar and have brought the present appeal seeking enhancement of the compensation amount.

Notice of the appeal was given to the respondent-Insurance Company which has put in appearance.

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

The Tribunal on analysis of the evidence adduced before it had come to the conclusion that respondent No. 1 Baljeet Singh was the author of the accident by his rash and negligent driving of the offending Canter resulting in death of deceased Parveen Kumar. That finding is proper and appropriate and does not call for any interference. It being so, driver-cum-owner and Insurance Company with which that Canter was insured are

jointly and severally liable to pay the amount of compensation on account of death of Parveen Kumar in the mishap. The Tribunal has awarded lump sum compensation of Rs.2,50,000/- to the claimants.

In my view the approach of the Tribunal in doing so was wrong. The deceased was aged about 22 years. Though the claimants could not bring any evidence on record to show that he was doing any service or was self employed earning a particular amount but in absence of that evidence even, the minimum wages payable to the workers at relevant time could have been considered. Learned counsel for the appellants has referred to circular issued by Labour Commissioner, Haryana providing minimum wages for unskilled workers at relevant time to be Rs.5547/- per month which can be rounded off to 5550/-. Keeping in view the age of deceased, 40% of such amount is to be added towards future prospects. Doing that the monthly income of the deceased can be assessed to be Rs.7770 (5550 + 2220). Keeping in view the fact that he was a bachelor, 50% of the amount is to be deducted towards his personal and living expenses. Doing that the dependency of his mother and brother comes out to Rs.3885/-, annual dependency comes out to Rs.46,620 (3885 x 12). Keeping in view the age of the deceased multiplier of 18 is to be used. Doing that the compensation comes out to Rs.8,39,160/- (46,620 x 18). The claimants are entitled to get Rs.15,000/- as funeral expenses and Rs.15,000/- on account of loss of estate. Thus the total compensation comes out to Rs.8,69,160/-. The Tribunal has awarded compensation of Rs.2,50,000/-. In that way, the claimants are entitled to get additional compensation of Rs.6,19,160/- (869160 – 2,50,000) payable by both the respondents jointly and severally.

The claimants would be entitled to get interest at the rate of Rs.7.5% per annum on this additional amount of compensation from the date of filing of the petition till actual realization. Out of the additional amount of compensation awarded, appellant Rekha Devi being mother of the deceased would get amount of Rs.5,00,000/- whereas remaining amount would be paid to appellant No. 2 Manoj Kumar.

With such modification, the appeal is allowed partly with costs.

(H.S. MADAAN)
JUDGE

December 03, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No