

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

FAO-3038-2018 (O&M)

Date of decision: 07.05.2019

Jagtar Singh

...Appellant

Versus

Gurnam Singh and others

...Respondents

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

Present: Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

On account of death of one Raghbir Kaur, in a motor vehicular accident, which took place on 02.03.2017 at about 9.30 AM, in the area near Village Mahlan Jhallian, statedly on account of rash and negligent driving of truck No.PB-08K-9857 (hereinafter referred to as offending vehicle) by respondent No.1 Gurnam Singh, legal representatives of deceased including her husband Jagtar Singh and others had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988 against the respondents i.e. Gurnam Singh-driver, Som Singh-owner and New India Insurance Company Ltd., Ropar-insurer of the offending vehicle in question.

After contest by all the three respondents, Motor Accidents Claims Tribunal, Ropar, vide award dated 13.12.2017 accepted the claim

petition and awarded compensation of Rs.2 lacs to claimant No.1 Jagtar Singh, husband of the deceased. Such claimant was granted interest @ 6% p.a., on the said amount from the date of decision till actual realization.

Claimant Jagtar Singh was not satisfied with the amount of compensation awarded to him by the tribunal and has approached this Court, by way of filing the present appeal, notice of which was given to respondent No.3-insurance company, who put in appearance to offer a contest.

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

The tribunal, on analysis of the evidence has taken the age of deceased to be 65 years and observing that she was a household lady, has evaluated the services rendered by her to the family as Rs.4500/-. Keeping in view the age of the deceased, such amount taken is quite reasonable. However, the tribunal has fallen in error in deducting 1/3rd amount towards personal expenses. It could not be done legally since the amount could be deducted from the income of deceased and not when the deceased was not working and her services to the family were being quantified in the terms of money, therefore, the amount of services rendered by the deceased to the family per annum comes out to be Rs.54,000/- (4500 X 12).

The tribunal has applied multiplier of 5, however, in view of the judgment **Smt.Sarla Verma and others Versus Delhi Transport Corporation and Anr., 2009(3) RCR(Civil)77** by the Apex Court, when

the deceased was in the age group of 61-65 years, multiplier of 7 should be applied. Doing that, the total compensation comes out to Rs.3,78,000/-.

Under the conventional heads, the appellant is entitled to get a sum of Rs.70,000/- i.e. Rs.15,000/- on account of loss of estate, Rs.40,000/- towards loss of consortium and Rs.15,000/- as funeral expenses. The tribunal has awarded less amount under those heads. Thus, the total compensation payable is arrived at Rs.4,48,000/-.

The tribunal has already awarded compensation of Rs.2,00,000/-. In that way, the appellant/claimant No.1 Jagtar Singh is entitled to get an additional compensation of Rs. 2,48,000/- (4,48,000 – 2,00,000). One more thing to be noticed is that the interest has been granted by the tribunal on the compensation amount from the date of passing of award till actual realization, when it should have been from the date of filing of application till actual realization. The interest granted is at lower rate i.e. 6% per annum. Therefore, the appeal is accepted and total compensation amount of Rs.4,48,000/- is awarded to the appellant/claimant No.1 Jagtar Singh, payable by all the three respondents, jointly and severally with interest @ 7.5% per annum from the date of filing of claim petition till actual realization besides costs of the litigation throughout.

07.05.2019

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No