

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

FAO-2155 of 1997 (O&M)

DATE OF DECISION : 24.01.2020

Pal Kaur and another

...Appellants

Versus

Madan Singh alias Madan Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present : Mr. Tarundeep Kumar, Advocate, and
Mr. Kulwinder Singh, Advocate, for
Mr. D.S.Pheruman, Advocate,
for the appellants.

Mr. Ashwani Talwar, Advocate,
for respondent No.3-Insurance Company.

KARAMJIT SINGH, J.

The appellants have filed this appeal against the award of Rs.50,000/- dated 19.08.1997 passed by the Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as, 'the Tribunal').

The brief facts of the case is that on 24.09.1994, Veer Singh son of the appellants, along with his wife Sarabjit Kaur and son Gursewak Singh, was going on his motorcycle from Amritsar towards his village Sabhra. When they reached near village Gohalwar, truck bearing registration No.PCQ 7765 driven in rash and negligent manner by respondent No.1-Madan Singh alias Madan Lal came from the side of Amritsar and struck against the motorcycle of Veer Singh. Due to said accident, Veer Singh, Sarabjit Kaur and Gursewak Singh sustained injuries and they died at the spot. Accident was witnessed by Mukhtiar Singh and Hardial Singh, who were coming behind the ill-fated motorcycle, on a separate scooter. FIR No.101/94 was registered in Police

Station City Tarn Taran regarding the said accident on 24.09.1994. The offending truck was owned by respondent No.2 and was insured with respondent No.3-Insurance Company.

The claim petition was filed by the appellants on account of death of Sarabjit Kaur wife of Veer Singh, in the aforesaid accident. In the claim petition, it was pleaded that the deceased was 24 years of age and she was housewife and was also doing the work of knitting and stitching from which she was earning Rs.2,000/- per month. The appellants claimed Rs.5,00,000/- as compensation on account of death of Sarabjit Kaur, who was their daughter-in-law.

On notice, the claim petition was contested by the respondents. Respondent Nos.1 and 2 filed joint written statement denying the fact of accident and it was pleaded that the claim petition be dismissed. Respondent No.3 filed its separate written statement taking preliminary objection that at the time of the alleged accident, the driver of the offending truck was not holding valid and effective driving licence. On merits, it was denied that the truck in question was involved in the alleged accident on 24.09.1994, as alleged by the claimants. It was prayed that the claim petition be dismissed.

On the pleadings of the parties, following issues were framed:-

1. Whether the accident took place due to rash and negligent driving of respondent no.1 OPA?
2. Whether the petitioners are entitled to the compensation, how much and from whom? OPA
3. Whether the driver was holding a valid driving licence at the time of accident? OPR.
4. Relief.

In support of its case, the appellants examined Appellant No.2- Mukhtiar Singh as AW1, AW2-Hardial Singh, who witnessed the accident in question, AW3-Niranjan Singh and AW4-Arun Kumar, Clerk, Civil Hospital, Tarn Taran, who proved postmortem report of the deceased, whose copy is Exhibit A1. Copy of FIR (Exhibit A2) was also tendered.

On the other hand, learned counsel for respondent No.3 tendered copy of insurance policy (Exhibit R1). The remaining respondents have not led any evidence.

After hearing learned counsel for the parties, the Tribunal partly allowed the claim petition and awarded, in total, Rs.50,000/- as compensation to the appellants in equal shares.

Aggrieved by the said award, the present appeal has been filed by the appellant.

I have heard learned counsel for the parties and gone through the record of the Tribunal.

Learned counsel for the appellants while assailing the award contended that the monthly income of the deceased was taken as nil by the Tribunal. No multiplier was applied in this case, while passing the award. No compensation was awarded on account future prospects, loss of love and affection and loss of estate. Even the funeral expenses were not given, while passing the impugned award. It is further contended that deceased was housewife and was also doing stitching and knitting work. Her monthly income comes out Rs.5,000/- per month. It is further contended that as the deceased was 24 years of age, multiplier of 18 is to be applied. While, concluding his arguments, learned counsel for the appellants submitted that the award passed by the Tribunal deserves to be modified and compensation

awarded by it be enhanced.

On the other hand, learned counsel for respondent No.3-Insurance Company submitted that deceased was housewife and her notional income has to be taken as Rs.2,000/- per month. Learned counsel for the Insurance Company conceded that multiplier of 18 is to be applied in this case. It is also contended that no additional compensation could be given on the ground of future prospects, as the deceased was having no fixed source of income.

I have considered the submissions made by the learned counsel for the parties.

While deciding Issue No.1, the Tribunal gave specific finding that the accident in question took place due to rash and negligent driving of Truck bearing registration No.PCQ 7765 by respondent No.1-Madan Singh alias Madan Lal.

The said finding has not been challenged by the respondents. It is also not disputed that, at the time of accident, the offending vehicle was insured with respondent No.3-Insurance Company and its driver was holding valid and effective driving licence.

The appellants have challenged the quantum of compensation awarded by the Tribunal. The age of the deceased was 24 years, at the time of her death, as has been recorded in the postmortem report (Exhibit A1). She was housewife. The husband and son of the deceased also died in the same accident. It is not disputed that the appellants were dependent on the deceased, they being her parents-in-law.

The accident in question took place in the year 1994. So, the notional income of the deceased is considered as Rs.2,000/- per month, as per

the law laid down by the Hon'ble Apex Court in **Lata Wadhwa Vs. State of Bihar, 2001(4) R.C.R. (Civil) 673**. The High Court in a judgment rendered in **Mangal and others Vs. Narender and others, 2017 ACJ 1942** has held that no deduction for personal expenses is to be made, in case of housewife, in view of law laid down by Hon'ble Apex Court in Lata Wadhwa's case (supra). So, the monthly dependency of the appellants on the deceased comes out to Rs.2,000/- per month and their annual dependency comes out to Rs.24,000/-. In this case, multiplier of 18 is to be applied, as per the law laid down by Hon'ble Apex Court in **Smt. Sarla Verma Vs. Delhi Transport Corporation, 2009(3) R.C.R. (Civil) 77**. So, the total dependency of the appellants on the deceased comes out to Rs.4,32,000/-.

As the deceased was having no permanent income, she being housewife, the appellants are not entitled to get any additional compensation on the ground of future prospects. Appellants, being parents-in-law of the deceased, are also not entitled to get compensation under conventional heads, namely, loss of estate and loss of consortium. However, they are entitled to get funeral expenses worth Rs.15,000/-, as per the law laid down by Hon'ble Apex Court in **National Insurance Company Limited Vs. Pranay Sethi, 2017(4) R.C.R.(Civil) 1009**. The total amount of compensation comes out to Rs.4,47,000/- (Rs.4,32,000/- + Rs.15,000/-).

As a sequel of above discussion, the appeal is partly allowed. The award of the Tribunal is modified and the total compensation payable to the claimants/appellants shall be Rs.4,47,000/-. In case, the award amount of Rs.50,000/-, as assessed by the Tribunal, and any interim compensation have already been paid, they are to be deducted from the aforesaid amount of

Rs.4,47,000/-. The appellants are also entitled to get interest at the rate of 6% per annum on the said amount from the date of filing of the appeal in this Court till the date of payment. The appellants will share the amount of compensation, as per the award of the Tribunal.

(KARAMJIT SINGH)
JUDGE

24.01.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No