

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

FAO-3772 of 2006

DATE OF DECISION : 29.01.2020

Smt. Bimla alias Bilo and others

...Appellants

Versus

Pyare Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present : Mr. Sanjay Mittal, Advocate,
for the appellants.

Mr. R.C.Gupta, Advocate,
for respondent No.3-Insurance Company.

KARAMJIT SINGH, J.

The appellants have filed this appeal against the award dated 29.05.2006 passed by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as, 'the Tribunal'), whereby compensation worth Rs.2,56,300/- was awarded to the claimants in equal shares, under Section 166 of the Motor Vehicles Act.

As per the appellants, on 19.09.2003 at about 6:00 a.m. Veerpal son of appellant No.4 was going to Delhi on his scooter bearing registration No.DL-4S/AA-3875 from village Suladha towards Delhi and when he reached in the area of village Nuna Majra, one truck bearing registration No.RJ-23G-1262, which was driven by respondent No.1-Pyare Lal in rash and negligent manner came from the opposite direction. The said truck, being driven on the wrong side of the road, rammed into the scooter of Veerpal. As a result of which, Veerpal sustained multiple injuries and died on the spot. The accident was witnessed by Satbir Singh, who was going on a separate motorcycle. The

matter was reported to the police and FIR No.330 dated 19.09.2003 under Sections 279/304-A of the Indian Penal Code, was registered in Police Station Sadar Bahadurgarh regarding the aforesaid accident. The offending truck was owned by respondent No.2-Ram Chander and was insured with respondent No.3-Insurance Company. Appellant No.1-Smt. Bimla alias Bilo is widow while appellant Nos.2 and 3, namely, Pardeep and Vikash, are sons of Veerpal. The appellants had claimed compensation worth Rs.15,00,000/- on account of death of Veerpal in the aforesaid motor vehicle accident.

The claim petition was contested by the respondents. Respondent Nos.1 and 2 filed joint written statement, in which, the factum of the accident in question has been denied. It was also pleaded that FIR in this case was falsely registered against respondent No.1. It was prayed that the claim petition be dismissed. Respondent No.3 filed separate written statement taking preliminary objection that at the time of the alleged accident, the driver of the offending vehicle was not holding valid and effective driving licence. On merits, it was pleaded that no such accident as alleged by the claimants/appellants took place on 19.09.2003 and it was prayed that the claim petition be dismissed.

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

1. Whether Veerpal since deceased died in a road side accident allegedly caused due to rash and negligent driving of truck bearing registration No.RJ-23G-1262 by its driver respondent No.1? If so to what effect? OPP
2. If issue No.1 is proved in affirmative, then to what amount of compensation the claimants are entitled to and from whom and in what ratio? OPP

3. Whether the driver of offending vehicle was not holding a valid and effective driving licence at the time of accident?

OPR

4. Relief.

Bimla Devi, widow of Veerpal appeared in the witness box as PW2. PW1-Satbir Singh deposed regarding the accident in question, which took place in his presence, PW3-Sohan Lal deposed regarding the avocation of Veerpal, who used to purchase milk from his firm. He also proved relevant entries (Exhibit P3 to Exhibit P11) regarding purchase of said milk by the deceased. The appellants also produced copy of postmortem report (Exhibit P15) of the deceased along with school certificates (Exhibit P12 to Exhibit P14).

On the other hand, respondent No.1 appeared in the witness box as RW1 and he produced copy of his driving licence (Exhibit R1). Counsel for respondent No.3 tendered insurance policy (Exhibit R2).

After hearing learned counsel for the parties, the Tribunal passed award of Rs.2,56,300/- in equal shares in favour of the appellants along with interest at the rate of 6% per annum from the date of filing of the petition till its actual realization. The appellants, being not satisfied with the said award, have filed this appeal.

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

During the arguments, it was not disputed that the deceased was working as a labourer. The accident took place about 17 years back. So, the monthly income of the deceased is taken as Rs.2200/- in place of Rs.1800/-, as

has been assessed by the Tribunal.

The date of birth of the deceased, as per matriculation certificate (Exhibit P12), was 10.03.1970. So, it is evident that deceased was 33 years of age at the time of his death. 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**, multiplier of 16 is applicable in the present case. During arguments, learned counsel for the appellants admitted that 1/3rd out of the monthly income of the deceased is to be deducted towards his personal and living expenses. It is also conceded by the learned counsel for the appellants that father of the deceased was not dependent on his son, so, he is not entitled to get the enhanced compensation, if any, granted in this appeal. 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**, addition of 40% of the established income of the deceased is to be counted towards future prospects. So, the total monthly dependency of appellant Nos.1 to 3 on the deceased comes out to Rs.2,053/-.

The monthly dependency of the claimants/appellants No.1 to 3 on the deceased comes out to Rs.2,053/- and their annual dependency on the deceased comes out to be Rs.24,636/- and their total dependency on the deceased is calculated as Rs.3,94,176/-. The appellant Nos.1 to 3 are also entitled to get amount of Rs.70,000/- under the conventional heads, as per the law laid down in Pranay Sethi's case (supra), which includes funeral expenses, loss of estate and loss of consortium. The total amount of compensation comes out to Rs.4,64,176/-.

This appeal is allowed, accordingly, and appellant Nos.1 to 3 are entitled to get enhanced compensation of Rs.2,07,876/- (Rs.4,64,176 -

Rs. 2,56,300) in equal shares, along with interest at the rate of 6% per annum on the said amount from the date of filing of the appeal till its realization. It is made clear that appellant No.4-Bohat Ram is not entitled to get any share out of the aforesaid enhanced compensation.

(KARAMJIT SINGH)
JUDGE

29.01.2020

adhikari

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