

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.4306 of 2014 (O&M)
DATE OF DECISION: 13.03.2020

Darshan Singh

....Appellant

versus

Jagdeep Singh and others

.....Respondents

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. G.S. Dhaliwal, Advocate for the
appellant

Mr. Varun Sharma, Advocate for
Mr. S.P. Dhamija, Advocate for respondent
No.3-Insurance Company

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ALKA SARIN, J.:

The present appeal has been preferred against the award dated 06.02.2014 passed by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') whereby the Tribunal had awarded an amount of Rs.2,72,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization. Dissatisfied with the amount awarded, the claimant has preferred the present appeal.

2. The brief facts relevant to the present case are that on 05.08.2009 Gurmail Kaur along with her son Sandeep Singh was travelling on a Bajaj Chetak Scooter bearing registration No.PB-10-AM-4701. They were coming from Dango-Pakhowal Road and when they reached

at T-Point of Village Sarabha and were waiting to cross the road, an Indica Car bearing registration No.PB-10CA-1732 came from Ludhiana side at a very high speed on the wrong side of the road and struck against the scooter of Sandeep Singh. Due to the impact, Gurmail Kaur and her son, Sandeep Singh, fell on the road. Both Gurmail Kaur and Sandeep Singh received grievous injuries. Gurmail Kaur succumbed to her injuries and Sandeep Singh was eventually referred to DMC Hospital, Ludhiana where he was stated to be under treatment. The accident was witnessed by one Sarabjit Singh son of Ranjit Singh.

3. The claim petition was filed by the husband of the deceased, Gurmail Kaur, wherein it was averred that the deceased was 61 years old at the time of the accident and she was running a dairy business and earning Rs.34,000/- per annum.

4. On notice, respondent No.1 appeared and filed his written statement taking the preliminary objection that the claim petition filed was totally false and frivolous. The factum of the accident was also denied.

5. Respondent No.2 filed her written statement raising the preliminary objection that respondent No.1 was holding a valid driving licence at the time of the accident and that the car was insured with respondent No.3. On merits, it was denied that respondent No.1 was driving the car in a rash and negligent manner.

6. Respondent No.3, the Insurance Company filed a separate written statement denying the factum of the

accident. It was further averred that respondent No.3 was not liable to pay the compensation in case the accident was proved since no policy particulars had been supplied to respondent No.3 either by the claimant or by the other respondents.

7. On the basis of the pleadings of the parties and the evidence on the record, the Tribunal had awarded an amount of Rs.2,72,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Dissatisfied with the amount awarded, the claimant-appellant has preferred the present appeal.

8. I have heard learned counsel for the parties.

9. It has been contended by learned counsel for the appellant that the deceased was a house wife and her notional income had been assessed as Rs.3,000/-, whereas as per the dictum laid down by the Supreme Court in the case of **Arun Kumar Agrawal and another V/s National Insurance Company and others, 2010 AIR (SC) 3426**, the notional income of a house wife had been assessed as Rs.5,000/-.

10. It was further contended that the amounts awarded under the conventional heads and the consortium were also on the lower side and not as per the dictum laid down by the Supreme Court in the cases of **Smt. Sarla Verma and others V/s Delhi Transport Corporation and another, 2009 (6) Supreme Court Cases 121** and **National Insurance Company Limited. V/s Pranay Sethi and others, (2017) 16 Supreme Court Cases 680**.

11. *Per contra*, learned counsel for respondent No.3/Insurance Company has contended that the amount awarded by the Tribunal was just and proper. The notional income of the house wife had correctly been assessed as Rs.3,000/- and there is no scope of any enhancement.

12. The only issue in the present case is regarding the quantum of compensation which had been awarded to the claimant-appellant. The Tribunal while calculating the compensation had taken the notional income of the deceased and awarded the following compensation:-

Sr. No.	Heads	Compensation Awarded
1.	Monthly Income	Rs.3,000/-
2.	Annual Income	Rs.3000 x 12 = Rs.36000/-
3.	Multiplier of 7	Rs.36,000x7= Rs.2,52,000/-
4.	Funeral Expenses	Rs.5,000/-
5.	Loss of Estate	Rs.5,000/-
6.	Consortium	Rs.10,000/-
7.	Total Compensation	Rs.2,72,000/-

Plus interest @ 7.5% per annum from the date of filing of claim petition till realization.

13. In the case of **Arun Kumar Agrawal** (*supra*), the Supreme Court while dealing with the case of a house wife had assessed the notional income of a house wife as Rs.5,000/-. The multiplier has correctly been

applied keeping in mind the age of the deceased. I further find that as per the dictum laid down by the Supreme Court in the cases of Smt. Sarla Verma (*supra*) and Pranay Sethi (*supra*), the amount awarded under the conventional heads and consortium are also on the lower side. I, therefore, deem it just and proper to award the following compensation:-

Sr. No.	Heads	Compensation Awarded
1	Notional Income	Rs.5,000/-
2	Annual Income	Rs.5000 x 12 = Rs.60000/-
3	Multiplier of 7	Rs.60,000x7 = Rs.4,20,000/-
4	Conventional Heads and consortium	Rs.70,000/-
5	Total Compensation	Rs.4,90,000/-
6.	Enhanced compensation	Rs.2,18,000/- (4,90,000 - 2,72,000/-)

The enhanced amount of compensation of Rs.2,18,000/- shall carry interest @ 7.5% per annum from the date of filing of the claim petition till realization.

14. I also find that the Tribunal while awarding the compensation has directed that an amount of Rs.72,000/- be given to the claimant-appellant and the remaining amount be kept in two FDRs of Rs.1,00,000/- each. The claimant-appellant in the present case is the husband of the deceased. Therefore, I do not find

any rationale or reason for directing that the said amount of compensation be kept in FDRs. It is, therefore, directed that the entire amount including the enhanced amount of compensation be released to the claimant-appellant.

15. In view of the above, the present appeal is allowed and the award passed by the Tribunal is modified accordingly.

(ALKA SARIN)
JUDGE

13.03.2020
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NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: YES