

FAO-5859-2014 (O&M)

207

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

**FAO-5859-2014 (O&M) WITH
XOBJC-248-CII-2015**

Date of decision : 11.05.2020

Pardeep Kumar and others

... Appellants

Versus

Rajesh Kumar and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Arjun Attri, Advocate, for the appellants.

Ms. Vandana Malhotra, Advocate

for respondent No.3-Insurance Company/cross-objector.

ALKA SARIN, J.

C.M No. 16219 of 2014

For the reasons stated therein, the application for condoning the delay of 127 days in filing the appeal is allowed.

FAO-5859-2014 (O&M) WITH XOBJC-248-CII-2015

The present appeal bearing FAO No.5859 of 2014 as well as cross-objections bearing XOBJC No.248-CII of 2015 are directed against the award dated 04.12.2013 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'Tribunal'), whereby an amount of ₹10,14,176/- along with interest @ 7.5% per annum has been awarded as compensation.

2. In brief, the facts relevant to the present case are that on 04.06.2011, Rattan Lal since deceased was coming from Ambala towards Yamuna Nagar on his

FAO-5859-2014 (O&M)

motorcycle bearing Registration No.HR-01Y-5227 and was riding the motorcycle on the correct side of the road at a moderate speed. At about 11.45 p.m., after crossing Hero Honda Agency, a dog suddenly came in front of his motorcycle and struck against his motorcycle. Due to the impact, deceased-Rattan Lal fell on the road side along with his motorcycle. One Vikas @ Bablu and Sanjeev Sharma, who were travelling in a Swift Car bearing Registration No.HR-51AL-5214, stopped the Car on seeing Rattan Lal lying on the road and came to help him. Meanwhile, the offending truck which was being driven by respondent No.1 rashly and negligently, despite 35 feet wide vacant road, came from behind to the extreme left and hit Sanjeev Sharma and Rattan Lal and also dragged the motorcycle for about 40 yards. Thereafter, the driver of the offending truck abandoned the truck and ran away. Both Rattan Lal and Sanjeev Sharma died on the spot

3. Two claim petitions were filed, one by the sons of deceased-Rattan Lal and one by Paramjit Kaur, the alleged wife of deceased-Rattan Lal. In the claim petitions it was averred that Rattan Lal was 55 years of age and was employed as Sub-Inspector in Haryana Police. It was further averred that he was drawing a salary of ₹33,000/- per month and that the claimants in both the petitions were dependent on the income of the deceased.

4. Written statement was filed by respondent No.1 wherein the factum of the accident was denied and further it was averred that respondent No.1 was having a valid and effective driving licence and that the offending vehicle was insured with respondent No.3.

5. Similar stand was taken by respondent No.2 in a separate written statement.

6. Respondent No.3/Insurance Company filed a separate written statement, wherein, it was averred that the Insurance Company was not liable to pay

FAO-5859-2014 (O&M)

compensation. It was further pleaded that the driver was not holding an effective and valid driving licence and that the offending vehicle was being driven in violation of terms and conditions of the insurance policy.

7. On the basis of the pleadings of the parties and the evidence on the record, the Tribunal recorded a finding that the appellants herein were the legal representatives of deceased-Rattan Lal. The Tribunal vide its award dated 04.12.2013 held that appellant Nos.1 and 2 were entitled to an amount of ₹3 Lacs each on the basis that they were married and had children and hence, could not be held to be dependent on the deceased. However, Anil Kumar-appellant No.3 was held to be entitled to compensation being dependent on the deceased-Rattan Lal. Qua Paramjit Kaur, a finding was returned that she had failed to prove that she was legally wedded wife of Rattan Lal and hence the claim petition filed by her was dismissed. No appeal has been preferred by her against the said award.

8. Dissatisfied with the amount awarded, the appellants herein have preferred the present appeal. The Insurance Company has also filed the cross-objections challenging the award of the Tribunal dated 04.12.2013 on multiple grounds.

9. I have heard learned counsel for the parties.

10. It has been contended by learned counsel for the appellants that the age of the deceased has wrongly been taken as 58 years whereas the deceased was aged 56 years and that there was ample evidence on the record to prove the fact that age of the deceased was 56 years. It has further been contended that no amount has been awarded towards future prospects as well as towards consortium.

11. Per contra, learned counsel for the cross-objector/Insurance Company-respondent No.3 has contended that the claimants had received compensation of ₹6,35,206/- under the Haryana Compassionate Assistance to the Dependents of

FAO-5859-2014 (O&M)

Deceased Government Employees Rules, 2006 (hereinafter referred to as '2006 Rules') and as per the judgment of the Supreme Court in the case of **Reliance General Insurance Company Ltd. V/s Shashi Sharma and others 2016 (4) RCR (Civil) 569**, the amount received by the claimants under the 2006 Rules ought to have been deducted from the amount of compensation awarded by the Tribunal.

12. The Tribunal while awarding the compensation has held that appellant Nos.1 and 2 would be entitled to only ₹3 Lacs each only as they were married and had children. However, there is no evidence on the record to controvert the statement of Anil Kumar-PW6 to the effect that all three appellants-claimants were dependent on the income of the deceased. There is no reasoning given by the Tribunal for recording the finding that appellant Nos. 1 and 2 were not dependent on the deceased-Rattan Lal except for the fact that they were married and had children. In the absence of any evidence having been led by the respondents to the contrary, I have no hesitation in holding that all three appellants were dependent on the deceased-Rattan Lal and hence, would be entitled to an equal amount of compensation. Qua age of the deceased-Rattan Lal, learned counsel for the Insurance Company has also not been able to controvert the argument of learned counsel for the appellants that the age of the deceased was 56 years. I also find that in view of the settled law in the cases of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(6) Supreme Court Cases 121, National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (16) Supreme Court Cases 680** and **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others, (2018) 18 Supreme Court Cases 130**, the Tribunal has not awarded any amount towards future prospects as well as towards consortium.

13. The argument qua deduction raised by learned counsel for the cross-objector/Insurance Company-respondent No.3 also deserves to be accepted in view

FAO-5859-2014 (O&M)

of the settled law in the case of **Shashi Sharma's case** (supra) and the amount of ₹6,35,206/- received by the claimants under the 2006 Rules would be required to be deducted from the total amount awarded as compensation.

14. In view of the above, I deem it just and proper to award the following compensation:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹28,873/-
2	Annual Income	₹28873 x 12 = ₹346476/-
3	Annual Income after Income Tax Deduction @ 10%	₹311829/- (₹346476-34647)
4	Deduction 1/3 rd	₹207886/- (311829-103943)
5	Future Prospects 15%	₹2,39,069/- (207886+31183)
6	Multiplier '9'	₹21,51,621/- (239069x9)
7	Loss of Estate	₹15,000/-
8	Funeral Expenses	₹15,000/-
9	Consortium	₹1,20,000/- (₹40000/- each)
10	Total	₹23,01,621/-
11	Total Compensation after deduction of financial assistance (₹6,35,206/-)	₹16,66,415/- (₹23,01,621-635206)

15. The enhanced amount of compensation to the tune of ₹6,52,239/- (₹16,66,415-10,14,176) shall carry interest @ 7.5% per annum from the date of

filing of the claim petition till its realization. The amount of compensation awarded shall be apportioned equally amongst all three appellants/claimants.

16. The present appeal as well as cross-objections are allowed in the aforesaid terms. The award of the Tribunal is modified, accordingly.

May 11, 2020
Yogesh Sharma

(ALKA SARIN)
JUDGE

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