

FAO-263-1991

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-263-1991

Reserved on:- 10.08.2023

**Pronounced on:- 16.08.2023**

**Amar Kaur**

...Appellant

Versus

**Jarnail Singh and others**

...Respondents

**CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI**

Present:- Mr. Kulvir Narwal, Advocate and  
Mr. Shubham Chaudhary, Advocate  
for the appellant.

Mr. Paul S. Saini, Advocate  
for respondent No. 3 - Insurance Company.

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**AMARJOT BHATTI, J.**

1. The appellant/claimant – Amar Kaur has filed the present appeal for enhancement of compensation awarded by learned Motor Accident Claims Tribunal, Hoshiarpur vide impugned Award dated 05.11.1990 vide which the claimant Amar Kaur has been awarded compensation to the tune of Rs.48,000/- (out of total compensation of Rs. 48,000/-, Rs. 25,000/- has already been ordered to be paid as interim compensation under Section 140 of the Motor Vehicles Act) from the date of the filing of claim application till the payment of the amount awarded, as detailed therein.

FAO-263-1991

-2-

2. The facts of the case are that Amar Kaur filed claim petition under Section 166 of Motor Vehicles Act, 1988 for grant of compensation of Rs. 10,00,000/- on account of death of her son Satnam Singh in a motor vehicular accident on 23.08.1989. Late Satnam Singh was about 20 years old at the time of accident. He was Matriculation pass. He was a motor mechanic by profession and was earning Rs. 500/- per month. It is further submitted that late Satnam Singh was recruited in the Army at Jalandhar on 17.10.1988. On the fateful day of 23.08.1989, late Satnam Singh alongwith his brother Jarnail Singh and one Gurdial Singh and one Juneshwar '*bhaiya*' were going back to their village Sandhera on their respective cycles. At about 06:00 P.M., when they reached near Narindra Box Factory, Nasrula, Hoshiarpur, the offending Truck bearing No. PUX-9261 being driven by respondent No. 2 in a rash and negligent manner came at a very high speed and struck against the cycles of Juneshwar '*bhaiya*' and Satnam Singh, who received multiple injuries and died on the spot. The matter was reported to the police and the police recorded a distorted statement of Jarnail Singh. However, the owner of the truck being an influential person in connivance with police changed the whole story and the dead body was sent to the village without conducting postmortem. The claimant has filed this claim petition claiming compensation to the tune of Rs.10,00,000/- on account of death of late Satnam Singh, from the date of accident till final realization of the amount, as detailed in the claim petition.

3. The claim petition was contested by respondents No. 1 to 3. The respondents No. 1 and 2 filed joint written statement. They took preliminary objection that claimant has no locus standi to file the present

FAO-263-1991

-3-

petition as a compromise dated 24.08.1989 was entered between the father of deceased Satnam Singh and respondents No.1 and 2. Since, the father of deceased represented that no other natural or legal heir of Satnam Singh was alive, therefore, Smt. Amar Kaur is not admitted to be the mother of deceased. On merits, it is admitted that the deceased had met with an accident with truck bearing No. PUX-9261. However, it is submitted that the deceased and Gurdial Singh while plying their cycles had a scuffle as a result they lost their balance. The truck behind the deceased blew the horn, as a result, the deceased looked back and lost his balance and got struck with the bumper of the truck. The truck was at a very low speed at that time. The claim of the claimant regarding compensation is also denied. Infact, the entire gathering at the spot admitted the fault of the deceased but on humanitarian basis, the amount of Rs. 16,250/- was paid to Bhagat Singh, father of the deceased. It is submitted that the claim application is not maintainable and accordingly deserves dismissal with costs.

4. The Insurance Company – respondent No. 3 admitted the fact that the offending vehicle was insured with them. However, it is submitted that the offending vehicle was not being plied under a valid route permit. It is further submitted that the driver of the offending vehicle was not having a valid Driving License at the time of alleged accident. Therefore, the Insurance Company is absolved of its liability to pay the compensation. It was prayed that the claim petition filed by the claimant may be dismissed qua the answering respondent – Insurance Company.

5. From the pleadings of the parties, following issues were framed by the Tribunal:-

FAO-263-1991

-4-

*(1) Whether respondent No. 1 drove Truck bearing No. PUX-9261 in a rash and negligent manner on 23.08.1989 and he struck the same against the cycle of Satnam Singh and Juneshwar 'bhaiya' and thereby caused injuries to Satnam Singh resulting in his death? OPA*

*(2) Whether Amar Kaur is the next heir and legal representative of the deceased? OPA*

*(3) Whether Bhagat Singh, father of the deceased entered into a compromise on 24.08.1989 with Baldev Singh respondent? If so what is the effect? OPR*

*(4) To what amount of compensation if any the applicant is entitled? OPA*

*(5) Relief.*

6. In order to prove the claim petition, the claimant Amar Kaur herself stepped into the witness box as AW-1. She also examined Jarnail Singh eye witness as AW-2 and Hari Krishan as AW3 who also tendered copy of Insurance Policy as Ex.RA.

7. In order to rebut the case of the claimant, the respondents have examined Gurbachan Singh as RW-1 and Bakhtawar Singh as RW-2. Thereafter, learned counsel for the respondents tendered copy of DDR as Ex.R-3 and closed the evidence of respondents.

8. After hearing the arguments advanced by learned counsel for both the parties, the claim petition filed by the claimant Amar Kaur was allowed by passing impugned Award dated 05.11.1990 vide which the compensation was awarded to the tune of Rs. 48,000/- as detailed therein

FAO-263-1991

-5-

aggrieved of this Award, the present appeal has been preferred by appellant/claimant – Amar Kaur.

9. I have heard the arguments of learned counsel for the appellant/claimant as well as learned counsel for respondent – Insurance Company. The counsel for the appellant/claimant has argued only pertaining to the quantum of compensation awarded by the learned Motor Accident Claims Tribunal, Hoshiarpur. In the case in hand, the lower Court record was requisitioned and partly reconstructed file is available. However, the learned counsel for both the sides pointed out that the deceased victim was doing private job at the cycle repair shop. Therefore, his monthly income was assumed by guesswork.

10. The learned counsel for the appellant/claimant argued only regarding Issue No. 4 framed in this case, regarding quantum of compensation. It is pointed out that deceased Satnam Singh was a young boy of 20 years of age who died in a motor vehicle accident. He was working at a cycle repair shop and this fact was confirmed by Hari Krishan AW3. In the said statement, he had stated that the deceased victim was earning Rs. 40/- per day. However, while assessing the quantum of compensation, the learned Motor Accident Claims Tribunal, Hoshiarpur assumed the income of deceased as Rs. 600/- per month. While calculating the quantum of compensation, no future prospects were considered. The learned Motor Accident Claims Tribunal, Hoshiarpur had granted meager compensation of Rs. 48,000/- out of which Rs. 25,000/- were paid during the pendency of the case and balance amount of Rs. 23,000/- was paid subsequently after the passing of Award. Since, the deceased victim was a young boy, therefore, considering his age the compensation was required

FAO-263-1991

-6-

to be assessed by applying the multiplier of 18. No compensation has been granted regarding loss of consortium nor adequate compensation has been granted regarding funeral and last rites. The present appeal is pending since long. Therefore, the appellant is entitled to receive the amount of compensation alongwith interest @21% per annum from the date of accident till realization of the amount.

11. On the other hand, learned counsel for the Insurance Company pointed out that considering the date when the accident took place, the minimum wages prevailing at that time should be considered. There is nothing on record to show that he was a trained mechanic. Therefore, the income of deceased victim cannot be taken as more than Rs. 800/- per month. It is pointed out that the future prospects of the deceased victim can be taken into account. Since, the deceased victim was unmarried son, therefore, 50% of the income is to be deducted towards personal expenditure. However, it is conceded by the learned counsel for Insurance Company that multiplier of 18 can be applied to assess the quantum of compensation. The rate of interest claimed by the appellant is towards the higher side. The appellant can be granted compensation with interest which is prevailing at present.

12. I have considered the arguments and have gone through the Award passed by learned Motor Accident Claims Tribunal, Hoshiarpur dated 05.11.1990 vide which Amar Kaur mother of the deceased victim was granted compensation of Rs. 48,000/- with cost. It is clearly mentioned in the aforesaid Award that Rs. 25,000/- were paid during the pendency of the case and only balance of Rs. 23,000/- were to be paid within a span of 30 days, failing which the claimant was entitled to interest

FAO-263-1991

-7-

from the date of application till realization of the amount and the counsel fee was assessed as Rs. 200/-. In the case in hand, only quantum of commencement is disputed by the learned counsel for the appellant regarding which Issue No. 4 was framed. It is not disputed that on the fateful day of 23.08.1989 at about 06:00 P.M. Satnam Singh while going on his cycle was hit by the offending truck as a result of which he died on the spot. It is further not disputed that he was a young boy of 20 years of age. It is the case of appellant that deceased victim was a scooter mechanic working at the shop of Hari Krishan who is examined as AW-3. The learned Motor Accident Claims Tribunal, Hoshiarpur considered the statement of this witness where Hari Krishan claimed that he was earning Rs. 70-80/- per day, whereas, he was paying Rs. 40/- per day as wages to Satnam Singh. Admittedly there is no documentary proof on the file to show that Satnam Singh had done any course of mechanic nor there is any direct evidence regarding the salary which was received by him from Hari Krishan. There is nothing on record to show that he was selected in Army. In order to assess the income of late Satnam Singh, we are to consider the wages prevailing in the year 1989. The learned Motor Accident Claims Tribunal, Hoshiarpur has assessed the quantum of compensation by considering his wages as Rs. 600/- per month which appears to be slightly on the lower side. Therefore, considering Satnam Singh as a scooter mechanic, his monthly salary is assumed as Rs. 800/- per month. By relying upon the authority cited in **2013(3) CivCC 15 Supreme Court of India**, in case titled "***Rajesh and others Vs Rajbir Singh and others***", Satnam Singh being self employed, 40% income is enhanced towards future prospects which comes out to be Rs. 320/- and monthly income

FAO-263-1991

-8-

comes out to be Rs. 1,120/- and annual income as Rs. 13,440/-. Satnam Singh was unmarried and the claim petition was filed by her mother, therefore by relying upon the authority cited in **2009 ACJ 1298 Supreme Court of India**, in case titled “***Smt. Sarla Verma and others Vs Delhi Transport Corporation and another***”, 1/2 income is deducted towards personal expenditure and the annual dependency of the mother is taken as Rs. 6,720/-. Considering his age as 20 years, multiplier of 18 is appropriate to be applied in this case and with this multiplier, the amount of compensation comes out to be Rs. 1,20,960/-. Amar Kaur lost her young son who would have been a great support to her during her old age. She must have spent considerable amount on his funeral and last rites. Therefore, considering these facts, the appellant is further granted Rs.10,000/- towards loss of love and affection, Rs. 3,000/- towards funeral and last rites, Rs. 2,000/- towards transportation and Rs. 5,000/- towards loss to estate. Thus, the total amount of compensation comes out to be Rs.1,40,960/-, round figure Rs.1,41,000/-.

The learned Motor Accident Claims Tribunal, Hoshiarpur had granted compensation of Rs. 48,000/- which is liable to be adjusted in the aforesaid enhanced amount of compensation and the appellant is entitled to receive the balance amount of Rs. 93,000/- from the Insurance Company as enhanced amount of compensation. The present appeal remained pending for a long duration. During this period, the rate of interest changed from time to time. Therefore, considering this aspect of the present case, the appellant is entitled to receive interest @7% per annum from the date of filing of the present appeal till realization of the amount.

Considering the long pendency of present appeal, the appellant is further

FAO-263-1991

-9-

granted Rs. 10,000/- towards litigation expenses.

Resultantly, the findings given by the learned Motor Accident Claims Tribunal, Hoshiarpur while passing impugned Award dated 05.11.1990 are modified regarding quantum of compensation by accepting the present appeal.

16.08.2023  
*lalit*

(AMARJOT BHATTI)  
JUDGE

|                            |        |
|----------------------------|--------|
| Whether speaking/reasoned: | Yes    |
| Whether reportable:        | Yes/No |