

RAVINDER AND ANR V/S SURINDER @ SINDER AND ORS

Present: Ms. Neha Rana, Advocate appearing for
Mr. R.N. Lohan, Advocate
for the applicant-appellants.

Mr. D.P. Gupta, Advocate
for respondent No.3-Insurance Company.

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CM No.488-CII of 2023

The instant application has been moved on behalf of applicant-appellant No.2 for fixing some actual date of hearing in the main appeal bearing ***FAO No.3062 of 2001***.

Notice in the application.

Mr. D.P. Gupta, Advocate, has appeared on behalf of respondent No.3-Insurance Company and he accepts the notice and he submits that he has no objection in allowing the present application.

Keeping in view the above-said fact as well as the reasons as mentioned in this application, the same is allowed and the afore-referred main appeal is taken on the Board today itself.

FAO No.3062 of 2001

Learned counsel appearing for the appellants as well as learned counsel for respondent No.3-Insurance Company submit that there is no dispute amongst the respondents *inter-se* qua the liability to pay the amount of compensation as all the respondents have been held to be jointly and severally liable to pay the same and therefore, the service of notices upon respondent No.1-Driver and respondent No.2-Owner of the offending vehicle may be dispensed with.

Ordered accordingly.

Let the arguments be heard after the lunch break.

13.01.2023
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(MEENAKSHI I. MEHTA)
JUDGE

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

FAO No.3062 of 2001

Date of Decision: 13.01.2023

Ravinder and another

...Appellants

Versus

Surinder alias Sinder and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Ms. Neha Rana, Advocate appearing for
Mr. R.N. Lohan, Advocate
for the appellants.

Service of notice upon respondents No.1 and 2
has been dispensed with.

Mr. D.P. Gupta, Advocate
for respondent No.3-Insurance Company.

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MEENAKSHI I. MEHTA, J. (Oral)

Feeling aggrieved and dis-satisfied with the Award passed by learned Motor Accident Claims Tribunal, Jind (for short 'the Tribunal') on 14.05.2001, whereby the appellants-claimants (here-in-after to be referred as 'the claimants') were granted compensation to the tune of Rs.2,04,000/-, along-with interest thereon @ 9% per annum from the date of filing of the claim petition till its payment/realization, on account of the death of their mother named Rajbala in a motor vehicular accident, they (claimants) have preferred the instant appeal for seeking the enhancement in the amount of compensation.

2. As per the brief factual-matrix culminating in the filing of the present appeal, the claimants, being the son and daughter of the afore-named deceased respectively, filed a petition against the respondents, the respective driver, owner and the insurer of the Jeep bearing registration No.HR-31A-0452 (for short 'the offending vehicle') to claim compensation of Rs.10 lac, while averring that on the ill-fated day, i.e 12.08.1998, the deceased and some other persons were travelling in the offending vehicle which was being driven by respondent No.1 in a rash and negligent manner. When they reached near the bridge of the Canal in the area of Village Kithana, respondent No.1 lost control over the said vehicle and resultantly, it struck against a tree and turned turtle and all its occupants sustained multiple grievous injuries in this accident and unfortunately, their mother succumbed to her injuries.

3. Respondents No.1 and 2 filed their joint written statement whereas respondent No.3 filed its separate written statement contesting the claim, as set-forth by the claimants in their petition, on various grounds. The claimants filed the replication and then, the Tribunal put the parties to the trial by framing the issues on 02.02.2000 after consolidating all the six claim petitions which had arisen out of the above-mentioned accident. After appreciating and evaluating the evidence as led by the parties on the record and hearing their learned counsel, the Tribunal passed the impugned Award, granting compensation to the claimants as already indicated in the opening para of this judgment.

4. It is pertinent to mention here that vide order dated 19.10.2015

passed by the Co-ordinate Bench, the name of appellant No.1 (Ravinder) had been ordered to be deleted from the array of the appellants in the instant appeal, in view of the facts that he had expired and appellant No.2-Parveen was his legal heir. It being so, the said claimant-No.2 is, now, the sole appellant, pursuing this appeal.

4. I have heard learned counsel for the appellant-claimant-No.2 as well as learned counsel for respondent No.3-Insurance Company in the present appeal and have also perused the record carefully.

5. Learned counsel for claimant No.2 contends that the Tribunal fell in error in considering the carry-home salary of the deceased, i.e Rs.2114/-, as her monthly salary whereas in her salary-certificate Exhibit P8, her gross salary is mentioned to be Rs.3745/- per month and the same should have been taken into consideration for calculating the amount of compensation and the Tribunal has also wrongly applied the multiplier of '12' despite the fact that the deceased was about 35 years old at the time of her death in the said accident and therefore, the multiplier of '15' was to be applied and moreover, no compensation has been awarded on the scores of future prospects, loss of estate, loss of parental consortium and even the amount of compensation granted towards the funeral expenses is also quite insufficient and in these circumstances, claimant No.2 is entitled to the enhancement of the amount of compensation, as awarded by the Tribunal.

6. Per-contra, learned counsel for respondent No.3-Insurance Company argues that the Tribunal has correctly computed the amount of compensation and hence, the present appeal deserves dismissal.

7. Exhibit P8 is the Last Pay Certificate of the deceased, showing her gross salary to be Rs.3745/- per month, including a sum of Rs.30/- as the Cycle Allowance and the amount of Rs.95/- as the Uniform Allowance. Concededly, these Allowances are to be deducted from the afore-said gross salary of the deceased and when so deducted, her monthly salary for the purposes of calculating the amount of compensation, would be Rs.3620/-.

8. In Exhibit P9, i.e the service-record of the deceased, her date of birth is recorded as 02.04.1963, meaning thereby that she was 35 years and 04 months old at the relevant time. In view of the verdict rendered by the Constitution Bench of Hon'ble Supreme Court in **National Insurance Company Limited Versus Pranay Sethi and Others 2017(16) SCC 680**, an amount equivalent to 50% of the above-assessed salary of the deceased, i.e Rs.1810/-, is to be added therein on the count of future prospects and on so adding, her monthly salary is arrived at $(3620+1810)=Rs.5430/-$.

9. Since both the claimants were the dependents of the deceased, therefore, $1/3^{th}$ share of her afore-mentioned salary, i.e Rs.1810/-, is to be deducted towards her personal expenditure, leaving the balance amount of Rs.3620/- to be counted towards the dependency of the claimants and thus, their annual dependency would be $(Rs.3620/- \times 12) = Rs.43,440/-$. In view of the observations as made by the Apex Court in **Sarla Verma and Others vs Delhi Transport Corporation and Anr 2009(6) SCC 121**, the multiplier of '15' would be applicable and when so applied, the amount of compensation would be $(Rs.43,440/- \times 15) = Rs.6,51,600/-$. Besides this amount, claimant No.2 is granted a sum of Rs.16,500/- for the funeral expenses and another

amount of Rs.16,500/- towards the loss of estate and a sum of Rs.44,000/- for the loss of parental consortium.

10. Accordingly, the enhanced amount of compensation, as shall be payable to claimant No.2, is worked out as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Dependency	Rs.2,01,600/-	Rs.6,51,600/-	Rs.4,50,000/-
Funeral expenses	Rs.2400/-	Rs.16,500/-	Rs.14,100/-
Loss of Estate	NIL	Rs.16,500/-	Rs.16,500/-
Loss of parental consortium	NIL	Rs.44,000/-	Rs.44,000/-
Net enhanced amount:	Rs.2,04,000/-	Rs.7,28,600/-	Rs.5,24,600/-

11. In view of the fore-going discussion, the appeal in hand is hereby allowed to the effect that the sole appellant-claimant No.2 Parveen is entitled to the net enhanced compensation amounting to **Rs.5,24,600/-**, over and above the amount of Rs.2,04,000/- as already awarded to the claimants and the said enhanced amount shall carry the interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

13.01.2023
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No