

FAO-4240-2022 (O&M)

Date of decision: 26.05.2023

Harpreet Kaur

....Appellant

versus

Jaimal Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Deepak Aggarwal, Advocate,
For the appellant.

Mr. Aman Sharma, Advocate,
For respondents No.2 and 3.

ARUN MONGA, J. (ORAL)

Appellant before this Court is claimant assailing impugned award dated 03.09.2021 rendered by learned Motor Accidents Claims Tribunal, Ludhiana (for brevity, "Tribunal") by way of enhancement.

2. Succinct facts, as noted by learned Tribunal, are as below:

"... Deceased was 23 years old and was a brilliant student of B.A.L.L.B 5 years course and used to earn Rs.10,000/- per month. Besides this, he was also helping his father in cultivation of the land and from that source he was earning amount of Rs.5 lakhs per year. It is averred in the claim petition that on 13.08.2018 at about 8.30 PM in the area of Village Chehllan, Tehsil Samrala, District Ludhiana when Harjot Singh was going on his Jeep bearing No.PB-10P-9900 and was going on his left side after doing some domestic work. Jagjit Singh (father of deceased) was following him on his motorcycle, all of sudden a Bus of PEPSU Roadways bearing No. PB-04-V-5579 came from Ludhiana side which was driven rashly and negligently by its driver and struck Jeep on wrong side and due to this impact Jeep rolled many a times. Harjot Singh received grievous injuries. The bus stopped and the driver came there and told his name as Jaimal Singh. Thereafter the driver slipped from that place. The FIR No.187 dated 14.08.2018 under Sections 279, 304-A and 427 IPC was registered with P.S.Samrala on the statement of Jagjit Singh."

3. Upon notice, respondent No.1 filed written statement denying factum of accident. It was averred that no such accident took place due to negligence on the part of respondent No.1. A false FIR was lodged against him.

3.1 Respondents No.2 and 2-A (respondents No.2 and 3 herein) in their written statement also took preliminary objections that the claim petition is not maintainable and no cause of action has ever arisen in favour of the claimants. Rest of the averments of the claim petition were also denied. Prayer for dismissal of claim petition was made.

4. Learned Tribunal framed the following issues:

- “1. *Whether deceased Harjot Singh died in the accident caused due to rash and negligent driving of Bus No.PB-04-V-5579 by the respondent No.1? If so, its effect? OPP*
2. *If issue No.1 is proved, whether the claimants are entitled for compensation, if so, to what amount and from whom? OPP*
3. *Whether the claim petition is not maintainable? OPR*
4. *Whether the respondent No.1 was having a legal and valid driving licence at the time of accident? OPR1.*
5. *Whether the claimants have not come to the Court with clean hands? OPR2.*
6. *Whether the claimant No.2 is not the dependent or class-I legal heir of the deceased? OPR-2*
7. *Relief.”*

5. On appraisal of record/ evidence, learned Tribunal decided issues No. 1, 3 and 5 in favour of claimants and against the respondents. Issue No.2 and 6 were decided in favour of claimant No.1. Issue No.4 was not disputed by respondent No.3, therefore it was decided against respondent No.3. Consequently, appeal was partly allowed and claimant No.1 was awarded compensation of Rs.10,02,000/- along with interest @ 7% per annum from the date of filing the petition till realization of the entire amount to be paid by all the respondents jointly and severally. The claim petition *qua* claimant No.2 was dismissed.

6. Learned counsel for appellant-claimant (mother of deceased) contends that learned Tribunal wrongly assessed income of the deceased as Rs.9,000/- per month, whereas he was studying in BA., LL.B course. He had passed his 4th semester in April-2016 and being a brilliant student, he was also teaching the students on part-time basis and was earning Rs.10,000/- per month. Besides this, he was also

helping his father in cultivation of land and from that source he was earning amount of Rs.5 lakh per year. He further contends that amount on account of funeral expenses and loss of consortium was on lower side. Also submits that learned Tribunal did not grant anything on account of attendant charges, pain and suffering and loss of love and affection. Interest granted by the learned Tribunal was also on lower side and compensation on account of all these heads needs to be awarded/enhanced.

7. On the other hand, learned counsel for respondent No.2 and 3- PRTC, Patiala opposes the appeal filed by claimant.

8. I have heard learned counsel for parties and perused case file.

9. Learned counsel for respondent No.2 and 3 vehemently supports the findings returned by learned Tribunal. He would urge that learned Tribunal rightly assessed the notional income of the deceased as Rs.9000/- per month.

10. Deceased was 23-year old and was studying in B.A. LLB (5 year course) and no doubt, he had a bright future ahead had he lived to fulfill his aspirations in pursuit of his higher aim in life, but for his untimely death caused by cruel hands of fate. I am of the view that assessing the notional income of the deceased as Rs.15,000/- per month would be reasonable, given that death took place in the year-2018. Reference may be had to the Apex Court judgment rendered in *Joginder Singh and another Vs. ICICI Lombard General Insurance Co. Ltd.* **CA-6291-2019 decided on 14.08.2019¹**. In that case, in somewhat similar circumstances, when a young student of 20 years, who was undertaking a course in an air hostess training program. The Apex Court upheld the determination of her income by the learned Tribunal as Rs.15,000/- per month when the accident took place in the year 2009.

11. I see no reason why in the present case monthly income of deceased cannot be taken as Rs.15,000/-, given that deceased herein was only 23-year old.
12. Respondents have not filed any appeal or cross objections in the case to dispute the findings recorded by the learned Tribunal.
13. In the premise, applying the principles in cases of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another**,² **National Insurance Co. Ltd. v. Pranay Sethi**,³ read with **Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others**,⁴, I am of the view that compensation for the death of Harjot Singh deserves enhancement.
14. In view of the above discussion, various computations of compensation *qua* each head are modified as below:

Deceased	Harjot Singh
Date of accident/death	13.08.2018
Age	23 years
Claimant	Mother of the deceased
Income of the deceased	Rs.15,000/-
Future prospects	40% (Rs.15,000+6000) = Rs.21,000/-
Deduction in dependency for personal expenses	1/2 (21,000-10,500)=Rs.10,500/-
Annual dependency	Rs.1,26,000 /- (10,500 x 12)
Total loss of dependency with Multiplier of 18	Rs.22,68,000/-
Loss of Consortium (Parents)	Rs.44,000/- x 2 = Rs.88,000/-
Loss of estate & funeral expenses	Rs.16,500/- + Rs.16,500/- = Rs.33,000/-
Total	Rs.23,89,000/-
Compensation awarded by the Tribunal	Rs.10,02,000/-
Enhanced amount of compensation to be paid	Rs.13,87,000/-

15. Accordingly, impugned award is modified in terms of above computations. Enhanced compensation shall be payable to claimants along with interest@ 7% per annum, from the date of filing of claim petition till actual date of

²2009 (3) The Punjab Law Reporter 22,
³(2017) 16 SCC 680

⁴2019 (3) SCC (Cri) 153

payment. Same shall be payable to claimant within a period of 2 months of her approaching the PRTC department along with the web print of instant order, failing which additional compensatory interest of 3% p.a. shall be paid from the date of filing of claim petition till payment. Enhanced compensation amount after adjusting the compensation, if any, already paid, be disbursed to claimant(s), as per the following apportionment:

Claimant No.2 Jagjit Singh (father of deceased) : Rs.44,000/-
(pro forma respondent No.4 herein) (with interest)

Remaining amount along with interest be paid to claimant No.1/
appellant Harpreet Kaur (mother of deceased).

16. In the premise, appeal filed by claimant No.1 stands disposed of in above terms.
17. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

26.05.2023
Vandana

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