

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

FAO-7066-2017 (O&M)

Date of decision: 22.02.2023

Asha Rani and others

...Appellants

Versus

Kuljeet Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. A.K. Spehia, Advocate for the appellants.

Mr. Lalit Garg, Advocate for respondent No.3.

H.S. MADAAN, J. (Oral)

Briefly stated facts of the case are that on account of death of Amar Nath in a motor vehicular accident, which took place on 22.01.2016 at about 4.30 pm in the area of just ahead of Chachrari bridge within jurisdiction of Police Station Goraya, statedly on account of rash and negligent driving of Punbus bearing No.PB-10-EH- 8754 (for short 'the offending vehicle') by respondent No.1- Kuljeet Singh, LR's of such deceased namely his widow Asha Rani, sons Charanjit Kumar, Sarvjit Kumar and Raman Kumar, all residents of Village Boharai Khurd, Tehsil & District Jalandhar had brought a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation, against Kuljeet Singh driver, Sahil Travels registered through its proprietor Jagroop Singh-owner and New India Assurance Company Ltd., Nabha (wrongly mentioned as New India Insurance Company Ltd.)-insurer of the

offending vehicle.

After contest, the claim petition was accepted by Motor Accidents Claims Tribunal, Jalandhar (for brevity 'the tribunal'), vide award dated 15.04.2017 and a compensation of Rs.4,06,250/- was awarded to the claimants along with interest @ 6% p.a., from the date of filing of claim petition till actual realization besides costs of the claim petition, payable by all the three respondents jointly and severally.

Feeling dissatisfied with the quantum of compensation awarded, such claimants have approached this Court by way of filing of the present appeal seeking enhancement of compensation so awarded. Notice of the appeal was given to the respondent No.3-insurance company and it has put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The tribunal considering the facts and circumstances of the case and evidence brought on record by the parties had returned a finding that respondent No.1 Kuljeet Singh had caused the accident by rash and negligent driving of the offending vehicle in which Amar Nath deceased had suffered injuries to which he had succumbed and for that reason, the LRs of deceased, who are claimants/appellants, were found entitled to get compensation.

While assessing the compensation, the tribunal had taken the age of deceased to be 70 years considering the evidence available on record, however, now during pendency of the appeal, the appellants have

filed an application bearing No.25899-CII-2018, for additional evidence to produce driving license of the deceased reflecting his date of birth to be 15.04.1956 in an attempt to show that on the date of accident, his age was 59 years. This application is being opposed by counsel for respondent No.3.

After hearing the counsel, I find that the application cannot be allowed since it does not fulfill the necessary requirements provided under Order 41 Rule 27 CPC for allowing production of additional evidence at appellate stage. Therefore, the application stands dismissed.

While the tribunal had considered the age of deceased to be 70 years, it had taken his monthly income to be Rs.6250/- keeping in view the minimum wages payable to unskilled worker in the State of Punjab at relevant time. Since the deceased was aged 70 years, no addition towards future prospects had been made. No fault can be found with such approach of the tribunal but I am of the considered view that the income of the deceased assessed by the tribunal is certainly on low side. It has been to be taken into view that at the time of accident, the deceased was driving a three wheeler Tata Ace loaded with goods going from Phagwara to Goraya. He was also possessing a driving license, therefore the version of claimants that deceased was a professional driver cannot be disbelieved. In any case, he is to be taken as a skilled labourer at the relevant time. As per schedule of minimum wages prevalent in the State of Punjab referred to by counsel for the claimants, the minimum wages for a skilled worker were Rs.8612.62 (8613 approx.).

Considering the number of dependent family members, deduction of 1/4th is to be made towards personal and living expenses. Doing that the dependency of the claimants comes out to Rs.6460/- per month, annual dependency Rs.77,520/- (6460 x 12).

The tribunal has rightly used the multiplier of 5. Thus the total compensation is arrived at Rs.3,87,600/-.

The claimants are entitled to get Rs.15,000/- as funeral expenses, Rs.15,000/- on account of loss of estate and Rs.40,000/- each i.e. total Rs.1,60,000/- on account of loss of consortium/filial consortium. Thus, the total compensation is worked out to Rs.5,77,600/-.

The Tribunal has awarded a sum of Rs.4,06,250/- which is enhanced to 5,77,600/-. Thus, an additional compensation payable to the claimants comes out to be Rs.1,71,350/- (Rs.5,77,600 – 4,06,250/-). The claimants shall be entitled to recover this amount with interest @ 7.5% p.a., from the date of filing of claim petition till actual realization along with costs of the claim petition as well as costs of the appeal. The liability to pay this amount being joint and several of all the three respondents. The apportionment of compensation and mode of payment would remain the same as directed by the tribunal in the impugned award.

The appeal stands partly allowed accordingly.

22.02.2023

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(H.S. MADAAN)
JUDGE

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