

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

FAO-2652-2000 (O&M)
Date of Decision: March 18, 2025

Raj Rani and others

...Appellants

VERSUS

Virsa Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Vinod Kumar Kataria, Advocate
for the appellants.

Mr.R.K.Girdhar, Advocate
for respondent No.1.

Mr.D.P.Gupta, Advocate
for respondent No.3.

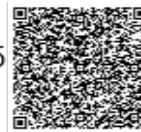
Mr.Mayank Mathur, Advocate
for respondent No.6.

ARCHANA PURI, J.

The present appeal has been filed by the appellants-claimants, thereby, seeking enhancement of compensation, awarded by learned Motor Accident Claims Tribunal, on account of death of Ashok Kumar, in a motor vehicular accident and they have also assailed the liability having fastened only upon the driver and insurer of the offending vehicle i.e. PAW-4605.

The facts germane, to be noticed, are as follows:-

That, on 20.05.1994, Ashok Kumar (since deceased) was going in canter bearing registration No.PAW-4605, which was proceeding from



Muktsar to Malout. When it reached near Cotton Factory, Malout, there was another vehicle stationed on the road, without parking lights. The stationed vehicle was bearing registration No.PB-03-2265.

On appraisal of the evidence, brought on record, it was concluded by learned Tribunal that accident had taken place due to rash and negligent driving of canter bearing registration No.PAW-4605, driven by respondent No.4-Mangal Singh.

Though, it was categoric claim of the appellants-claimants that deceased Ashok Kumar was indulging in the business of contractor of sale and purchase of the vegetables and fruits, but however, considering no satisfactory evidence, brought on record, learned Tribunal considered the deceased to be working as labourer and took his daily wages as Rs.60/- per day and his monthly earnings were taken as Rs.18,000/-. Out of the same, 1/3rd was deducted on the count of 'personal expenses' and the actual dependency was worked upon as Rs.12,000/-. Considering the deceased to be 35 years old, multiplier of '17' was applied and the compensation was worked upon as Rs.2,04,000/- and besides the same, Rs.5,000/- was granted towards 'funeral expenses' and 'loss of consortium'. In total, the compensation of Rs.2,09,000/- was awarded and the liability was only fastened upon the respondent No.4-Mangal Singh and respondent No.6-the Oriental Insurance Company Limited, being driver and insurer respectively of the offending vehicle bearing registration No.PAW-4605.

However, it is pertinent to mention that 'work on' of the compensation, as aforesaid is erroneous. While taking the earnings of the deceased to be Rs.60/- per day, the monthly earnings comes to be Rs.1800/-,

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instead of Rs.18,000/- and further, while making deduction of 1/3rd, the loss of dependency comes to be Rs.1200/- instead of Rs.12,000/-, as done by learned Tribunal. Furthermore, by applying the multiplier of '17', the amount of compensation comes to be Rs.2,44,800/- (i.e. $1200 \times 12 \times 17$), instead of Rs.2,04,000/- as worked upon by learned Tribunal.

In this backdrop, the 'work on' of the compensation, do call for re-computation.

Suffice to mention that none of the respondents, upon whom the liability has been fastened, have filed any appeal. From the evidence adduced on record, the age of deceased Ashok Kumar has been appropriately considered as 35 years. Even though, deceased Ashok Kumar has been asserted to be indulging in sale and purchase of fruits and vegetables, but appropriately, it has been considered by learned Tribunal that no concrete evidence, relating to this vocation followed by the deceased, as such, has come on record. But anyhow, considering the same also, the earnings of the deceased, as such, cannot be taken as that of a labourer as assessed by learned Tribunal.

Considering the same, in the fitness of circumstances, in modest estimate, the earnings of the deceased is taken as Rs.2000/- per month. Considering the number of dependents to be six, the deduction of 1/4th, ought to be made, instead of 1/3rd, as done by learned Tribunal. Thus, the loss of dependency comes to be $Rs.2000 - 500(1/4th) = Rs.1500/-$ per month, annual whereof, comes to be Rs.18,000/-. However, to the said amount, considering age of deceased to be 35 years, as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*,



addition of 40%, ought to be made, on the count of ‘future prospects’, which comes to be Rs.7200/-. After making such addition, the earnings of the deceased, comes to be Rs.25,200/-.

As per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, considering the age of the deceased, the appropriate multiplier to be applied is ‘16’ instead of ‘17’, as applied by learned Tribunal. Thus, by applying the same, the loss of dependency comes to be **Rs.25200x16=Rs.4,03,200/-**.

Besides the aforesaid, on the count of ‘**loss of consortium**’, all the appellants-claimants, are entitled to prevalent rate of Rs.48,400/- each and they are also entitled to compensation, on the counts of ‘**loss of estate**’ as well as ‘**funeral expenses**’, which is **Rs.18,150/-**, on each count.

Considering the same, the compensation payable to appellants-claimants, on account of death of Ashok Kumar, is re-computed, as herein given:-

Loss of dependency	:	Rs.4,03,200/-
Loss of consortium	:	Rs.2,90,400/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Total	:	Rs.7,29,900/-

Now, comes the question of the liability. It is pertinent to mention that learned Tribunal, while awarding the compensation, had fastened the liability upon respondent No.4-Mangal Singh (being driver of canter bearing registration No.PAW-4605) and respondent No.6-The Oriental Insurance Company Limited (being insurer). It is essential to take

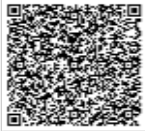


note that initially, Satish Kumar was impleaded as respondent No.5, c/o Bharat Cold Drinks, The Mall, Ferozepur City i.e. the owner of the offending vehicle. However, during the pendency of the claim petition, Vijay Kumar s/o Satish Kumar was substituted in place of Satish Kumar, as observed in the order dated 11.05.1995. Subsequently, respondents No.4 and 5 i.e. Mangal Singh and Vijay Kumar, were proceeded against ex-parte.

Counsel for the Oriental Insurance Company i.e. insurer of the offending vehicle, had not led any evidence and closed the evidence on 09.12.1998. However, it is significant to note that by way of additional evidence, the insurance policy of the vehicle in question was brought on record, as Ex.P3. Perusal of the same, reveals that the vehicle in question i.e. PAW-4605 was duly insured with The Oriental Insurance Company Limited for the period 06.04.1994 to 05.04.1995 and it covered the date of accident. Vijay Kumar was insured of the said vehicle.

Considering the same, it is pertinent to mention that there is no reason assigned, as to why the owner has not been fastened with the liability. Furthermore, there is no reason assigned by learned Tribunal, as to why the liability was fastened upon the driver and insurance company in equal shares. Since the vehicle was duly insured, at the instance of Vijay Kumar-owner, as per the insurance policy Ex.P3 and the date of the insurance also covers the date of accident, therefore, the liability ought to be joint and several of driver, owner and insurer of the offending vehicle.

Thus, the impugned Award is modified to the extent, thereby saddling the liability upon driver, owner and insurer of the offending vehicle bearing registration No.PAW-4605 i.e. respondents No.4 to 6, to be joint and



several.

Furthermore, on the amount of the compensation as now worked upon i.e. **Rs.7,29,900/-**, the appellants-claimants shall be entitled to the interest, at the rate of 9% per annum, from the date of filing of the claim petition, till realization of the enhanced amount of compensation. Out of the compensation, as now worked upon, appellant-claimant No.1 is held entitled to Rs.2,29,900/- and the appellants-claimants No.2 to 6 are held entitled to Rs.1,00,000/- each.

With the above observations, the present appeal stands allowed.

March 18, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No