



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

**FAO-8240-2014 (O&M)
Date of Decision: May 05, 2025**

Smt.Billa and others

...Appellants

VERSUS

Raju and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.M.K.Sood, Advocate,
for the appellants.

Respondents No.1 and 2 proceeded against ex-parte.

Mr.Pradeep Kumar, Advocate
for respondent No.3.

ARCHANA PURI, J.

The appellants-claimants have filed the present appeal for seeking enhancement of the compensation, awarded by learned Motor Accident Claims Tribunal, on account of death of Mahender, in a motor vehicular accident.

Suffice to consider that the accident had taken place on 20.09.2011. On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident in question, to have taken place, on account of rash and negligent driving of three-wheeler bearing registration No.HR-38P-4322, driven by respondent No.1 Raju and awarded compensation to the extent of Rs.6,30,000/- to the claimants and further held



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respondents No.1 to 3 i.e. driver, owner and insurer of the offending vehicle, to be liable to pay the compensation.

Be it noted that none of the respondents, upon whom, the liability was fastened, have filed any appeal. In fact, the present appeal has been filed by the appellants-claimants for seeking enhancement of the compensation.

It is the pleaded case of the appellants-claimants that deceased was 40 years and was indulging in own business of fixing iron Naals in the feet of horses, bulls etc. and his monthly earnings were Rs.20,000/-. However, learned Tribunal, while considering the monthly earnings of the deceased to be Rs.5000/- per month, deducted 1/3rd, on the count of 'personal expenses' and applied the multiplier of '15'. The compensation was worked upon as Rs.6,00,000/-. Besides the aforesaid, another amount of Rs.10,000/- was awarded, on the count of 'medical expenses' as per the bills Ex.P1 to Ex.P9 and another amount of Rs.20,000/- was awarded on the count of 'last rites/funeral expenses and loss of estate'. Thus, in total, the compensation awarded was Rs.6,30,000/-.

Certainly, the 'work on' of the compensation aforesaid, calls for re-computation, as per prevalent law.

It is submitted by learned counsel for the appellants that the earnings of the deceased were Rs.20,000/- per month, but however, relating to the same, no satisfactory evidence, as such, has come on record. In fact, learned counsel for the appellants has placed reliance upon the certificate Ex.P12, issued by the Sarpanch. However, it is pertinent to mention that the Sarpanch, at whose instance, this certificate was issued, thereby, asserting about the monthly earnings of the deceased to be Rs.20,000/- per month, has

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not been examined. In fact, this certificate is not even coming forth, in the testimony of widow of the deceased or other witnesses. It was only tendered into evidence, at the tail end of the evidence, at the instance of learned counsel for the claimants. In the given circumstances, no such sustenance can be drawn from this certificate, with regard to the earnings of the deceased.

Also, reliance has been placed upon Ex.P1, which is asserted to be relating to the purchase of iron bars, at the instance of the deceased. However, the said bill has been brought on record by Vinod Kumar. There is no mention made of the name of the deceased in the said bill and in the given circumstances, it is difficult to relate the same to the deceased. Otherwise also, this bill is relating to an amount of Rs.2000/-, which in itself is not sufficient to make assessment of the earnings of the deceased. In the given circumstances, when no definite evidence has been brought on record, with regard to the extent of earnings, learned Tribunal has appropriately assessed the monthly earnings of deceased to be Rs.5,000/- per month.

Undisputedly, the deceased was 40 years old, at the time of accident. Considering the same, addition of 25% ought to be made, on the count of 'future prospects', which comes to be Rs.1250/-. After making such addition, the earnings of the deceased, comes to be Rs.6250/-.

Considering the number of dependents, the deduction on the count of 'personal expenses' ought to be made to the extent of 1/4th, instead of 1/3rd, as done by learned Tribunal, which comes to be Rs.1562/- and the residue earnings comes to be Rs.4688/-, annual whereof, is Rs.56,256/-.

Taking the age of the deceased, as observed aforesaid, as per



Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77, the appropriate multiplier to be applied is '15' as applied by learned Tribunal. Thus, by applying the same, the loss of dependency comes to be $Rs.56,256 \times 15 = Rs.8,43,840/-$.

Besides the aforesaid, on the count of '**loss of consortium**', all the appellants-claimants, are entitled to prevalent amount of Rs.48,400/- each i.e. $Rs.48,400 \times 4 = Rs.1,93,600/-$ 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.

Moreover, learned Tribunal has appropriately awarded compensation on the count of 'medical expenditure' to the extent of **Rs.10,000/-**.

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

Loss of dependency	:	Rs.8,43,840/-
Loss of consortium	:	Rs.1,93,600/-
Loss of estate	:	Rs.18,150/-
Funeral expenses	:	Rs.18,150/-
Medical expenditure	:	Rs.10,000/-
Total	:	Rs.10,83,740/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.10,83,740-6,30,000=Rs.4,53,740/-**. On the enhanced amount of the compensation i.e. **Rs.4,53,740/-**, the appellants-claimants shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till

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realization of the enhanced amount of compensation.

Accordingly, the impugned Award dated 15.07.2014 stands modified, to the extent, as indicated aforesaid. The residue terms of the Award, with regard to the apportionment and disbursement of the compensation, as ordered by learned Tribunal, shall remain the same.

Even though, learned Tribunal, at first instance, had held the liability of the respondents to be joint and several, but however, in the relief clause, erroneously, it has mentioned about there to be violation of insurance policy, as respondent No.1 was not having valid driving licence, so respondent No.3 is directed to pay the compensation with recovery rights by filing the execution. This finding so recorded is palpably wrong, as driver of the offending vehicle was having a valid driving licence, at the time of accident. Considering the same, the liability of the respondents, to pay the compensation, for all intents and purposes, is joint and several.

In view of the aforesaid observations, the present appeal stands allowed.

May 05, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No