

(2002) 08 P&H CK 0102

In the Punjab And Haryana At Chandigarh

Case No : First Appeal From Order No. 156 of 1992

Smt. Gurjeet Kaur and Others

APPELLANT

Vs

Gurinder Pal Singh alias Mohinder Pal Singh and Others

RESPONDENT

Date of Decision : 29-08-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 166

Citation : (2003) 1 ACC 569 : (2003) ACJ 1763 : (2003) 133 PLR 108 : (2002) 4 RCR(Civil) 525

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : S.S. Narula, for the Appellant; J.P. Dhull, for the Respondent

Final Decision : Allowed

Judgement

Virender Singh, J.—This is an appeal by the claimants who are legal heirs of deceased Avinash Singh, for enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ludhiana.

2. Brief facts of the case are that on 2.5.1988. Avinash Singh was going on scooter No. PAK-8504. He was driving the scooter while one Manoj Kumar was sitting on the pillion seat. Bus No. HNG-902, belonging to the Haryana Roadways being driven by Gurinder Pal Singh-respondent No. 1 in a rash and negligent manner, came from Ludhiana side and rammed into the scooter after first hitting a cyclist. As a result of the accident, the scooter was-smashed and Avinash Singh was removed to C.M.C. Hospital, Ludhiana where he succumbed to the injuries.

3. The learned Tribunal, on appreciation of evidence brought on record in support of the claim petition, came to the conclusion that the deceased was earning between Rs. 1200/- to Rs. 1400/- per month. After deducting 1/3rd as personal expenditure, the Tribunal assessed the dependency at Rs. 900/- per month and annual dependency was accordingly calculated at Rs. 10,800/-. After applying the multiplier of 16, the learned Tribunal awarded the compensation of Rs.

1,72,800/-. The claimant-appellants were further held entitled to interest at the rate of 12 per cent annum from the date of filing of the petition till realisation of the awarded amount. Being dissatisfied with the amount of compensation, the present appeal has been filed.

4. I have heard Mr. S.S. Narula, learned counsel for the appellants and Shri J.P. Dhull, learned Assistant Advocate-General, Haryana on behalf of the respondent Nos. 2 and 3 whereas respondent No. 1 i.e. the driver of the offending bus has chosen not to appear.

5. Learned counsel for the appellants has vehemently argued that the conclusion arrived at by learned Tribunal regarding the monthly income of the deceased ranging between Rs. 1200/- to Rs. 1400/- is not borne out by the evidence brought on record as it has been proved on record that the monthly income of the deceased was not less than Rs. 2000/- per month. The learned counsel further argued that the Tribunal has not taken into consideration the future prospects of the deceased. The deceased was an Electronics Engineer with M/s Jupiter Radios, G.T. Road, Ludhiana and it has specifically been stated by Harbans Singh Bali, PW-7, who was Personel Officer with M/s Jupiter Radios (Registered) that the deceased was likely to be appointed as Manager Incharge of a new plant within 2 or 3 months. His income was, therefore, likely to be enhanced in the near future. In support of his argument, the learned counsel has placed reliance upon Smt. Sarla Dixit and another Vs. Balwant Yadav and others, and Bharti Mehta and Anr. v. Haryana Roadways and Ors. (1999) 117 P.L.R.177.

6. Taking into consideration the submissions made by the learned counsel for the appellants and after going through the record, I am of the view that the learned Tribunal was not justified in assessing the monthly income of the deceased ranging between Rs. 1200/- to Rs. 1400/-. Further, the learned Tribunal has erred by not taking into account the further prospects of the deceased. It has specifically come in the statement of PW-7 Harbans Singh Bali, who was also employed as Personel Officer in M/s Jupiter Radios (Registered) that Avinash Singh was in their employment and he was drawing monthly salary of Rs. 2000/- out of which Rs. 160/- used to be deducted as monthly subscription towards provident fund. He had further deposed that the deceased was likely to be appointed as Manager Incharge of a new plant within 2 or 3 months. The wife of the deceased-Gurjit Kaur, who was examined as AW-1, deposed that her husband at the time of accident was aged about 35 years. He was an Electronics Engineer and was employed with M/s Jupiter Radios, a T.V. concern. It was further deposed by her that the deceased was also doing part-time service in some other firms and was getting monthly income of Rs. 10,000/-.

7. Since no evidence regarding the part-time service of the deceased in some other firms has come on record, the learned Tribunal did not take that aspect into account and I have no reason to disagree with the Tribunal on this count. However, keeping in view the evidence on record, the monthly income of the deceased in any case cannot be assessed less than Rs. 2000/- at the time of

accident and while taking into account his future prospects considering the qualification and the age, the income of the deceased, in my view, has to be assessed at Rs. 2500/- being quite reasonable. After deducting 1/3rd towards personal expenditure, the dependency comes to Rs. 1666/-. To round off it comes to Rs. 1700/- per month i.e. Rs. 20,400/- per annum. Applying the multiplier of 16, the amount of compensation comes to Rs. 3,26,400/-. The learned Tribunal has also not awarded any compensation on account of loss of consortium and funeral expenses. In the circumstances of the case, an amount of Rs. 10,000/- is awarded for loss of consortium and Rs. 5000/- towards funeral expenses. Thus, the appellants are held entitled to a total amount of Rs. 3,41,400/- as compensation. They shall also be entitled to interest at the rate of 12 per cent per annum on enhanced amount of compensation from the date of filing of the petition till realisation thereof. The liability to pay the aforesaid amount of compensation will be of respondent Nos. 2 and 3 jointly and severally.

8. The apportionment of the amount of compensation awarded by the Tribunal has already been calculated by the Tribunal, However, keeping into view the enhanced compensation of Rs. 1,58,600/- the apportionment would be now as under:-

Gurjeet Kaur, Widow of Avinash Singh Rs. 2,05,000/- (Rs. 1,15,000 as enhanced compensation including

Rs. 10,000/- for loss of consortium and Rs. 5000/- as funeral expenses).

Jagdeep Singh, minor son and Anand Preet Kaur, minor daughter Rs. 1,26,400/- (Rs. 53,600/- as enhanced compensation to be shared by them equally)

Total Rs. 3,41,400/-

9. However, it is made clear that in case the children of the deceased are minor at this stage, the enhanced amount of compensation would be deposited in the shape of FDRs in any scheduled bank and they would be entitled to receive the same after attaining majority on moving an application before the Tribunal.

Resultantly, the appeal is allowed. The award of the learned Tribunal stands modified to the extent indicated above.