

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

FAO No. 1856 of 2009  
Date of decision: 26.02.2010

Surinder Kaur and others

.....Appellants

Versus

Vijay Kumar and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD K.SHARMA**

Present:- Mr. Ravinder Malik Ravi, Advocate,  
for the petitioners.

Mr. R.M. Suri, Advocate,  
for respondent No.3.

**VINOD K.SHARMA, J. (ORAL)**

This appeal, by the claimants, is directed against the award dated 9.1.2009, passed by the learned Motor Accident Claims Tribunal, Kurukshetra, vide which the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, was allowed.

The widow and minor children of deceased Pritpal Singh sought compensation on account of his death in a motor vehicular accident, on the pleadings that on 29.12.2007 deceased Pritpal Singh while driving his motorcycle No. HR-02R-1411 and was coming from the side of KMG Milk Foods Masana after completing his duties.

Father-in-law of the deceased Bhupinder Singh met him on the GT Road T point of village Masana. The deceased was driving his motorcycle on the left side of the road by observing the traffic rules. At about 7.30 a.m. car No. PB-29-F-2312, which was being driven by respondent No.1 Vijay Kumar rashly and negligently came at a fast

speed hit the motorcycle, as a result of which the deceased fell down and suffered injuries. The car also swerved towards the ditches and struck against a tree. The matter was reported to the police. The deceased was shifted to LNJP Hospital, Kurukshetra, from where he was referred to PGI, Chandigarh, but was, in fact, shifted to Military Hospital, Ambala Cantt., where he died on 1.1.2008.

It was claimed that the deceased was doing a private job and in addition running a dairy.

The claim petition was contested by the respondents i.e. driver and the owner of the offending car No. PB-29-F-2312. In their joint written statement they denied the factum of accident, and pleaded that wrong FIR was registered against them, in collusion with the police to procure false claim. It was claimed, that the accident was caused due to the negligence of the driver of the motorcycle i.e. deceased.

The respondent-Insurance Company also contested the claim by denying the factum of accident and asserted that false FIR was registered in collusion with respondents No.1 and 2. It was also pleaded that the driver of the offending car did not have a valid and effective driving licence at the time of accident. Plea of violation of terms of insurance policy was also raised.

On the pleadings of the parties, the learned Tribunal framed the following issues: -

- “1. Whether the motor vehicle accident dated 29.12.2007 is an outcome of rash and negligent driving of Car No. PB-29-F-2312 by Vijay Kumar respondent No.1? OPP*
- 2. Whether the petitioners are entitled to*

*compensation on account of death of Pritpal Singh in the aforesaid accident? If so, in what amount and from whom? OPP*

3. *Whether the driver of the aforesaid vehicle was not having valid driving licence at the time of alleged accident? OPR-3*
4. *Whether the insurance company is not liable on the grounds taken in the preliminary objections and additional pleas? OPR-3*
5. *Relief.”*

On appreciation of evidence, the learned Tribunal came to the conclusion that the motor vehicular accident on 29.12.2007, in which Pritpal Singh died, was outcome of rash and negligent driving of car No. PB-29-F-2312 by respondent No.1 Vijay Kumar. The claimants were held entitled to compensation to the tune of Rs.3,79,600/- (Rupees three lac seventy nine thousand and six hundred only) along with interest @ 9% per annum from the date of filing of the claim petition till realisation. It was held, that the driver of the offending vehicle had a valid driving licence at the time of accident. The liability, therefore, was fixed as joint and several.

The claimant/appellants have challenged the quantum of compensation by pleading that the learned Tribunal failed to notice that besides pension of Rs.3,000/- (Rupees three thousand only), the deceased was earning another sum of Rs.5,000/- (Rupees five thousand only) by way of salary as security guard. The learned Tribunal took note of the fact that after the death, the widow was to get pension of Rs.1,300/- (Rupees one thousand and three hundred only). The proved income was much higher, which was wrongly ignored.

The learned counsel for the appellants also challenged the multiplier on the plea, that keeping in view the age of the deceased multiplier of 15 should have been applied instead of 14.

The learned counsel for the appellants also contends that the compensation of Rs.10,000/- (Rupees ten thousand only) on account of funeral expenses, loss of consortium and loss of estate, is on the lower side, which deserved to be enhanced.

Keeping in view the evidence led, there is possibility of enhancing the income of the deceased, however, this is not going to make any material difference, as the learned Tribunal has not taken into consideration, the fact that the widow of the deceased was getting family pension of Rs.1,300/- (Rupees one thousand and three hundred only), therefore, the loss of income after taking into account pension was only Rs.1,700/- (Rupees one thousand and seven hundred only) per month and not Rs.3,000/- (Rupees three thousand only) as assessed. The dependency of Rs.2,200/- (Rupees two thousand and two hundred only), therefore, cannot be said to be on the lower side in view of the proved evidence on record, even if the income of the deceased is taken to be more than Rs.3300/- (Rupees three thousand and three hundred only) as assessed.

There is force in the contentions raised by the learned counsel for the appellants that multiplier applied should be 15 instead of 14. The compensation on account of funeral expenses, loss of consortium and loss of estate also deserves to be enhanced to Rs.20,000/- (Rupees twenty thousand only) from Rs.10,000/- (Rupees ten thousand only). The learned counsel for the appellants accepted that appeal be disposed

of by applying multiplier of 15.

This appeal is partly allowed and the compensation awarded is enhanced to Rs.4,06,000/- (Rupees four lac and six thousand only). The appellants shall also be entitled to interest @ 9% on the enhanced compensation from the date of filing of the claim petition till realisation.

**(Vinod K. Sharma)**  
**Judge**

**February 26, 2010**  
**R.S.**