

(1993) 03 P&H CK 0010

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Sarwan Devi and
Others

APPELLANT

Vs

State of Haryana and
OthersRESPONDENT

Date of Decision: March 22, 1993**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 110A

Citation: (1993) 2 ACC 569**Hon'ble Judges:** G.C. Garg, J**Bench:** Single Bench

Judgement

G.C. Garg, J.

This is claimants' first appeal against the order of the Motor Accidents Claims Tribunal dated November 21, 1984 for enhancement of compensation awarded on account of death of one Hira Singh, husband of appellant No. 1 and the father of appellant Nos. 2 to 4 herein.

2. Briefly, the facts are that on February 2, 1984, Hira Singh was going to his village on a bicycle when Bus No. HRM/8044 belonging to Haryana Roadways, Rewari and driven by respondent No. 4 struck against the bicycle of Hira Singh from behind, who fell down, received injuries and died at the spot. The claimants alleged in the petition filed u/s 110 A of the Motor Vehicles Act that at the time of death, the deceased was earning Rs. 1,00,000/- per month and thus, they claimed compensation to the tune of Rs. 1,00,000/- plus interest etc. Though the respondents in their written statement denied the accident with the bus in question and their liability to pay any compensation, the Tribunal after considering the entire evidence led by the parties, awarded a sum of Rs. 42,000/- in all by way on compensation with interest at the rate of 12% per annum from the date of filing of the claim petition i.e. February 25, 1984. Dissatisfied with the quantum of compensation,

flue claimants have filed the present appeal.

3. It has been found by the Tribunal that at the time of death the age of the deceased was 55 years and he was earning Rs. 1000/- per month as his salary being employed as Mechanic in the Railways. The Tribunal further found that the deceased was supporting his wife and three children from his income and therefore, he must at least be spending 60% of his income upon them. Accordingly, the Tribunal found the dependency of the appellants on the deceased to the tune of Rs. 600/- per month or Rs. 7200/- per annum. Applying a multiplier of five, apparently for the reason that since at the time of death the deceased was 55 years of age and he being a government servant would have retired after five years, the Tribunal thereby calculated Rs. 36,000/- as compensation up to the age of 60. The Tribunal calculated another sum of Rs. 6000/- on the premises that even after retirement the deceased would have got pension and was likely to do some work and thus, would have supported his wife for at least another five years. Assuming the pension of the deceased to the tune of Rs. 200/- per month after the retirement and thereby placing the dependency of the wife upon the deceased at Rs. 100/- per month, a sum of Rs. 6000/-, as stated above, was calculated. This is how, the Tribunal awarded a sum of Rs. 42,000/- in all to the appellants as compensation on account of death of Hira Singh, and also draw proportions as to what amount the wife would get and what the sons of the deceased.

4. After considering, the entire matter and going through the award, I am of the view that the Tribunal erred in imposing a cut of 40% on account of expenses to be incurred by the deceased on himself. The deceased was getting Rs. 1000/- per month as his salary and besides himself, he was to support his wife and three children between the age group of 13 to 18 years. He must have been contributing a sum of Rs. 750/- per month to his family. The cut of 40% imposed by the Tribunal on account of expenses to be incurred by the deceased on himself is excessive. The amount to be collected at the rate of Rs. 750/- per month or Rs. 9000/- per annum would come to Rs. 45,000/- by applying the multiplier of five as the deceased would have been in service for at least five years more, he being 55 years of age at the time of death. Moreover, since the deceased was earning Rs. 1000/- by way of his salary, there can be no doubt that on his retirement he would have got about a sum of Rs. 400 to 450 on account of his pension. There is nothing on the record to suggest that the deceased was not enjoying good health. Therefore, besides pension, he would have earned something by doing some work. There can also be no manner of doubt that life expectancy in our country has gone high. Taking all these facts into consideration, I am of the view that even after retirement the deceased must have contributed at least Rs. 250/- per month to his wife and three children and thus, a sum of Rs. 3,000/- per annum. While agreeing with the observations of the Tribunal that the deceased would have lived five years more after his retirement, I find that the deceased would have contributed a sum of Rs. 15,000/- (Rs. 3000 multiplied by five) after his retirement. In these circumstances, the appellants are entitled to a sum of Rs. 60,000/- in all as compensation on account of death of Hira Singh deceased, including the amount

granted u/s 92-A of the Motors Vehicles Act. The appellants will be entitled to get the enhanced amount of compensation in the same proportion as has been allowed by the Tribunal. They will also be entitled to interest at the rate of 12% per annum on the enhanced compensation from the date of filing of the claim petition i.e. February 25,1984, till the date of payment.

For the reasons stated above, the appeal is allowed to the ex tent indicated above by modifying the award of the Tribunal accordingly. No costs.