

(2000) 11 P&amp;H CK 0078

## High Court Of Punjab And Haryana At Chandigarh

Case No: F.A.O. No. 1574 OF 1999

Smt. Bala

APPELLANT

Vs

Vasudev

RESPONDENT

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**Date of Decision:** Nov. 24, 2000**Acts Referred:**

- Motor Vehicles Act, 1988 - Section 166

**Citation:** (2001) 2 CivCC 605 : (2001) 3 RCR(Civil) 184**Hon'ble Judges:** V.S. Aggarwal, J; R.L. Anand, J**Bench:** Division Bench**Advocate:** Mr. Surender Gandhi, for the Appellant; Mr. Narender Hooda, AAG, for the Respondent

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**Judgement**

V.S. Aggarwal, J.

This is an appeal filed by Smt. Bala and others, hereinafter described as "the appellants", directed against the award of the Motor Accident Claims Tribunal, Bhiwani, dated 2.4.1999. By virtue of the impugned award, the learned Tribunal had awarded Rs. 2,02,000/- in favour of the appellants and against the respondents. The respondents were held liable jointly and severally to make the payment of the compensation with interest at the rate of 12% per annum from the date of filing of the claim petition till actual realisation. The learned Tribunal apportioned the said amount amongst the appellants in the following manner :-

"1. Smt. Bala, petitioner No.1	Rs. 1,02,000/-
2. Deepak, petitioner No.2	Rs. 35.000/-

3. Amarjeet, petitioner No.3	Rs. 25,000/-
4. Jyoti, petitioner No.4	Rs. 25,000/-
5. Smt. Janki Devi	Rs. 25,000/-

2. 50% amount of the share of Smt. Bala was directed to be deposited in any Nationalised Bank for a period of five years, whereas the entire share of the minors was directed to be remained deposited in any Nationalised Bank till they attain the age of majority. The appellants seek enhancement of the compensation so awarded.

3. The relevant facts are that on 9.5.1997 at about 4.30 p.m. Satbir Singh (since deceased) was going on his motor-cycle to his village Seepar. When he reached near the bus stand Bawani Khera, a Haryana Roadways bus bearing No. HR-19-PA/0152 being driven rashly and negligently by Vasdev respondent No, 1 came from the opposite side. It hit against the motorcyclist as a result of which Satbir Singh fell down and d"ied at the spot. The deceased was stated to be of 32 years of age and was working as a Supervisor in M/s. Shree Ganesh Stone Crushing Mills, Pinjokhra Road, Khanak, Distt. Bhiwani. The claim was of Rs. 13,10,000/-.

4. The respondents have contested the claim petition on identical pleas. It was staled that the fault was entirely of the deceased who was driving the motor-cycle in a rash and negligent manner.

5. The learned Tribunal recorded that it was the driver of the Haryana Roadways Bus who was driving the bus in a rash and negligent manner. The learned Tribunal further held that the monthly income of the deceased was Rs. 1800/-and he was contributing Rs. 1200/-per month towards his family members. The multiplier of 14 was applied and the amount of compensation was calculated.

6. In the present appeal before us, there was no controversy regarding the alleged rash and negligent driving by the driver of the Haryana Roadways Bus. Only two questions came up for consideration : (a) whether the income of the deceased has been correctly assessed; and (b) whether the multiplier of 14 that has been applied can be described to be reasonable.

7. As regards the first contention, the evidence on the record indicates that Smt. Bala had deposed that her husband had been working as a Supervisor at Khanak Stone Crusher known as Ganesh Stone Crushing Mills and Rs. 4000/- per month was his salary. She also stated that he was earning Rs. 1000/- by doing agricultural pursuits. However, it transpired in the evidence of Ram Chander, PW-2, that the

deceased was having no agricultural land. There was no witness from the Khanak Stone Crusher that was produced to show that he was drawing Rs. 4000/- per month as salary. Salary certificate was not even proved formally. It was, therefore, taken that the deceased was a labourer and his income was rightly assessed at Rs. 1800/- per month. After deducting 1/3rd for his own maintenance, his contribution towards the appellants was rightly taken to be Rs. 1000/- per month.

8. In that event, second ground had been pressed into service. It was urged that the multiplier should have been of 16. On this count, the contention, indeed, must succeed. Necessarily, one has to go by the facts and totality of the circumstances. The deceased was only 32 years of age. Therefore, the multiplier of 14 cannot be described to be reasonable. We are of the considered opinion that it should be 16 and in that process the compensation must be Rs. 2,30,400/-. There should be no interference with respect to the interest granted and the manner in which the amount has been apportioned. The enhanced compensation should be apportioned in the same manner.

9. Subject to the aforesaid, the present appeal is allowed. The compensation is enhanced to Rs. 2,30,400/- with interest at the rate of 12% per annum from the date of the filing of the claim petition till the payment as such is made. The distribution of the amount will remain on the same principle as adopted by the Tribunal.

10. Appeal partly allowed