

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

FAO No. 1361 of 1992 (O&M)

Date of decision: 01.09.2015

Nirmala and others

... Appellants

versus

Prince Tourist Bus Service and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. S.S. Dinarpur, Advocate for the petitioner.

Mr. Vivek Goel, Advocate for respondent Nos. 1 and 2.

Mr. Aseem Aggarwal, Advocate for respondent No.3.

K.Kannan, J.

The appeal is for enhancement of compensation for death of a male aged 26 years, in an accident that took place on 02.12.1987. The deceased was a motor mechanic and his employer gave evidence to the effect that he used to give Rs. 1,400/- as salary and Rs. 50/- daily as allowance. The claimants were widow, minor daughter and mother. The trial Court took the income at Rs. 1,500/- and without providing for conventional heads of claim awarded a compensation of Rs. 1,92,000/-.

I will re-appraise the compensation at the scales presently provided to reduce the amount of loss of consortium and loss of love and affection with 50% each, taking note of the fact that the provision for interest for the accident of 1987 will provide for an adequate sum which is now granted post Rajesh and others Vs. Rajbir Singh and others, 2013

(9) SCC 54. I will take the income at Rs. 1,500/- and make possible a prospect of increase at 50% and adopted a multiplier of 17. The several heads of claim are tabulated as under:

<u>Fatal</u>	Date of accident	02.12.1987	
Age	26		
Occupation	Motor Mechanic		
Claimants	Widow, Minor Daughter and mother.		
SR. No.	Heads of claim	Tribunal Amount (Rs.)	High Court Amount (Rs.)
1	Income	1,500/-	1,500/-
2.	Add, % of increase, 30%/50%		2,250/-
3.	Deduction, 1/2, 1/3, 1/4,		1,500/-
4.	Multiplicand		18,000/-
5.	Multiplier	16	17
6.	Loss of dependence		3,06,000/-
7.	Medical Expenses		
8.	Loss of Consortium		50,000/-
9.	Loss of love and affection (minor child & mother)		1,00,000/-
10.	Loss to estate		5,000/-
11.	Funeral		5,000/-

	Expenses		
	Total	1,92,000/-	4,66,000/-

The total amount of compensation will be 4,66,000/-, the amount in excess of what has been assessed already will attract interest @ 7.5% from the date of the petition till the date of the payment. The additional compensation shall be distributed in the ratio of 2:2:1 for the widow, minor daughter and mother respectively.

In terms of judgment of the Supreme Court in Oriental Insurance Company Limited Vs. Cheruvakkara Nafeesu, 2001(1) RCR (Civil) 475 (SC), as relied on by this Court. The liability will be borne by the Insurance Company and the amount in excess of Rs. 50,000/- which is the statutory liability shall be recovered by the insurer against the owner and driver of the vehicle. There is no question of reducing the liability as sought for by the owner.

The appeal is allowed. The issue of liability for the owner is also set forth as above making provision for recovery by the Insurance Company after satisfying the award.

(K.KANNAN)
JUDGE

01.09.2015

kv