

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

**FAO No.1812 of 2000 (O&M)
Date of Decision: July 20, 2015**

Sunita and others

.... Appellants

vs.

Surender and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Surinder Gandhi, Advocate for the appellants.

Mr. B.S. Taunque, Advocate for respondent No.3.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

The original file of this case has been burnt in the fire incident that broke out in the year 2011 in the record room of this court.

There is a delay of 27 days in filing the present appeal.

For the reasons mentioned in the application supported by an affidavit, delay of 27 days in filing the appeal is condoned, subject to all just exception.

The claimants-appellant have filed this appeal for enhancement of compensation against the Award dated 12.06.1999

passed by the Motor Accident Claims Tribunal, Rohtak (in short 'the Tribunal'), vide which four claim petitions bearing Nos.172, 173 of 1997, 33 of 1998 and 8 of 1998/1999 were disposed of by the Tribunal by a common Award.

The common facts of the case are that on 19.07.1997 around 2.30 p.m., Bijender S/o Dhoop Singh, Rajbir S/o Dharma Singh, Lala S/o Ginni Ram deceased and Smt. Tripta, injured were travelling in a jeep bearing registration No.HR-13-6685 and were going from village Garnawathi to Rohtak. At about 2.30 p.m. when the jeep reached near the well of Baldev Jat on Rohtak-Beri Road in the area of village Garnauthi, a bus bearing registration No.HR-46-5057 came from Rohtak side, being driven rashly and negligently by Surender Singh (respondent No.1 herein) dashed the bus against the jeep. As a result of the accident, Bijender, Rajbir and Lala died at the spot whereas Tripta suffered serious injuries. Randhir Singh witnessed the occurrence and lodged the FIR No.185, dated 19.09.1997 under Sections 279 and 304-A IPC at Police Station Kalanaur against Surender Singh-driver of the offending bus.

Suffice to say that the respondents contested the claim petition. The Insurance Company took the usual legal objection while pleading that the accident was the result of negligent driving of jeep by Lala.

The Tribunal in the present case filed by Sunita and others observed that Rajbir was 29 years of age. In the absence of any proof of income, his income was taken to be as of casual

labourer @ ₹1,800/- per month. After deducting 1/3rd as personal expenses, the dependancy of the claimants was calculated ₹1,200/- per month. The multiplier of 16 was applied and the compensation was calculated @ ₹2,30,400/-, which was accordingly ordered to be portioned between all the claimants.

The claimants-appellants are not satisfied with the compensation and have come up in the present appeal.

I have heard learned counsel for the parties and have also carefully gone through the case file.

In this case, no compensation under any other conventional head was granted.

Learned counsel for the claimants-appellants has vehemently argued that in this case future prospects were not considered. No compensation was granted for loss of consortium to the widow, loss of love and affection to the children and nothing has been awarded on account of funeral expenses. The multiplier of 16 was wrongly applied whereas multiplier of 17 should have been applied.

I find merit in the present case. In this case, keeping in view the age of the deceased, 50% of the income i.e. ₹900/- is added as future prospects. The total income of the deceased comes to ₹2,700/-. After deducting 1/3rd as personal expenses, the dependancy dependancy of the claimants comes to ₹1,800/- per month. After applying the multiplier of 17, the annual dependancy of the claimants comes to ₹3,67,200/- (₹1800/- x12x17). ₹1,00,000/- is

awarded for loss of consortium to the wife and another sum of ₹1,00,000/- is awarded for loss of love, affection and future guidance to the children. ₹25,000/- is also awarded on account of funeral expenses. In this way, the total amount of compensation comes to ₹5,92,200/-.

The enhanced amount of compensation shall be paid with interest @ 7.5% per annum from the date of filing of the claim petition till its realization and the same shall be portioned as mentioned in the impugned Award.

The present appeal is allowed accordingly to the abovesaid extent.

July 20, 2015
sarita

(KULDIP SINGH)
JUDGE