

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

FAO No. 565 of 2000

Date of Decision:-28.7.2015

Smt. Rani Devi and others

.....Appellants

Versus

Balwinder Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr.Zorawar Singh Chauhan, Advocate for the appellants.

Mr.Anil Kumar Gahlawat, Advocate for respondent Nos.2 & 3.

SHEKHER DHAWAN, J (Oral).

Present appeal is challenge to award dated 12.1.2000 passed by the Motor Accident Claims Tribunal, Kurukshetra, (hereinafter to be referred as "The Tribunal"), whereby 'The Tribunal' awarded compensation of ₹ 1,69,000/- on account of death of Kehar Chand. The facts are not in dispute that Kehar Chand died in a motor vehicular accident on 3.7.1997, leaving behind a widow and four children, who are appellants before the Court. Learned counsel for appellants mainly took the plea that 'The Tribunal' has taken the income of deceased on lower side as he was working as 'Karigar' and was a skilled worker. Still, the Tribunal has taken the income of deceased to be ₹ 1800/- per month. Apart from that, 'The Tribunal' has not awarded any amount on account of enhanced future

earnings. Though the deceased was earning ₹ 1800/- per month, even minimum amount has not been awarded under conventional heads i.e. loss of consortium for the widow and loss of love & affection for children and two children were minor. Even minimum amount has not been awarded on account of funeral expenses. Learned counsel for respondents took the plea that 'The Tribunal' has taken care of income of the deceased as the same was prevalent in the year 1997. There is no contrary evidence available on the file to interfere in the findings of 'The Tribunal'. The Tribunal has already awarded just compensation and appeal be dismissed.

2. Having considered the rival contentions raised by learned counsel for both the parties, this Court is of the considered view that 'The Tribunal' has taken the income of the deceased to be ₹ 1800/- on the basis of evidence available before the Court by way of oral testimony. There was no documentary evidence on record about the income of the deceased from either side. At this stage, there are no grounds to interfere in the findings of 'The Tribunal' regarding income of the deceased. However, 'The Tribunal' has not taken into account the fact that the deceased was of the age of 46 years and he was a '**Karigar**' and with the passage of time, his income was to increase considerably and claimants are entitled to 50% amount on account of loss of enhanced future earnings. Apart from that, the claimants are entitled for compensation on account of consortium for widow and loss on account of love & affection for two children i.e. Mamta Rani and Bhushan Kumar, who have been shown to be minor in the claim petition and in the memo of parties and the claimants are entitled to amount of ₹ 25000/- on account of funeral expenses. Accordingly, the amount of compensation is re-assessed as under:-

Monthly income	₹ 1800/-	
Annual income	₹ 1800 x 12	₹ 21,600/-
Addition of 50% on account of enhanced future earnings	₹ 21,600 + 10800	₹ 32,400/-
Less 1/4 th as number of claimants are five	₹ 32,400 – 8100	₹ 24,300/-
After applying multiplier of 13	₹ 24,300 x 13	₹ 3,15,900/-
Add consortium as one of the claimant is widow	₹ 1,00,000/-	₹ 4,15,900/-
Loss on account of love and affection for minor children	₹ 2,00,000/-	₹ 6,15,900/-
Loss on account of funeral expenses	₹ 25,000/-	₹ 6,40,900/-
Total compensation amount	₹ 6,40,900/-	
Already awarded amount by the Tribunal	₹ 1,69,000/-	
Enhanced amount	₹ 6,40,900 - 1,69,000/-	₹ 4,71,900/-

3. The enhanced amount of ₹ 4,71,900/- shall be payable along with interest at the rate of 7.5% p.a. from the date of claim petition. Remaining conditions for disbursal of amount shall remain unaltered.

4. Accordingly, the appeal is partly allowed.

(SHEKHER DHAWAN)
JUDGE

28.7.2015
AS