

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

451

FAO No. 3140 of 2002

DATE OF DECISION: May 04, 2015.

Dhanpati

....Appellant.

VERSUS

Sampuran Singh and others

....Respondents.

CORAM : HON'BLE MR. JUSTICE K.C. PURI

Present: Mr. Ashwani Bakshi, Advocate
for the appellant.

Mr. R.N. Singal, Advocate
for the respondents.

K.C. PURI, J. (Oral)

This is an appeal directed by the mother Dhanpati against the award dated 12.09.2001 passed by the Motor Accident Claims Tribunal, Rohtak, for enhancement of compensation.

Briefly stated, Dhanpati mother and Ram Singh father of the deceased Vijay Kumar filed a claim petition claiming compensation to the tune of Rs.7,00,000/- on account of death of Vijay Kumar in a motor vehicular accident. The learned Tribunal partly accepted the claim petition and awarded a sum of Rs.1,50,000/- in respect of the medical expenses upon the deceased and further a sum of Rs.1,05,600/- was allowed in respect of death of Vijay Kumar.

The notional income of the deceased was taken as Rs.1,500/- per month, one third has been deducted in respect of personal expenses of the deceased and the monthly dependency has been taken as Rs.1,000/- for four years and in this manner the amount calculated was Rs.28,000/- for four years (1000 X 12 X 4) regarding 12 years dependency was taken as Rs.400/- per month and amount calculated was Rs.57,600/- (400 X 12 X 12) total amount of Rs.1,05,600/- which was rounded off as Rs.1,06,000/- was awarded. Father is stated to have died and mother alone has preferred the present appeal for enhancement of compensation.

Learned counsel for the appellant has submitted that once notional income has been taken in that case deduction cannot be made in view of the authority **Kishan Gopal and another Vs. Lala and others, 2013(4) R.C.R. (Civil) page 276.** He has further submitted that no amount in respect of loss of love and affection and last rite has been granted.

However no arguments has been advanced on medical expenses granted by the Tribunal, by the counsel for both the parties.

In respect of the amount granted to the claimant regarding death of Vijay Kumar, learned counsel for Insurance Company has supported the judgment of the Tribunal.

I have considered the submissions made by both the parties and have gone through the case file.

The contention raised by counsel for the appellant that once notional income has been taken in that case no deduction can be made, carries weight and has to be accepted in view of the above said authority. So the dependency of the claimant is taken as Rs.1,500/- per month. The yearly dependency comes to Rs.18,000/- (1500 X 12). In authority Krishan Gopal

and another (Supra) itself, it is mentioned that multiplier has to be applied in accordance to the age of the parents. Since deceased was stated to be 21 years and as such the age of the claimant can be taken as 45 years. By applying the multiplier of 14 the amount of compensation comes to Rs.2,52,000/-. Another sum of Rs.10,000/- stand granted in respect of last rites and transportation expenses. Claimants are also held entitled to claim of Rs.25,000/- in respect of loss of love and affection. In this manner, the total amount calculated on account of the death of Vijay Kumar, comes to Rs.2,87,000/-. The amount of Rs.1,50,000/- allowed in respect of medical expenses stands confirmed. In this manner, the claimant/appellant is held entitled to claim Rs.4,37,000/- including Rs.1,50,000/- in respect of medical expenses in all.

The enhanced amount shall carry interest @ 7.5% per annum from the date of application till realization. The liability to pay the amount shall be the same as awarded by the Tribunal.

(K.C. PURI)
JUDGE

May 04, 2015.
komal