

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

**FAO NO. 1544 OF 2003 (O&M)
DECIDED ON : 03.07.2015**

Premwati and others

...Appellants

versus

Mohd. Mumtaz and others

...Respondents

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

Present : Mr. Adarsh Jain, Advocate,
for the appellants.

Mr. Gaurav Sharma, Advocate for
Mr. Anil Shukla, Advocate,
for respondents No.1 and 2.

Mr. Lalit Garg, Advocate,
for respondent No.3

K. C. PURI, J. (ORAL)

This is an appeal directed by the widow, minor children and mother of deceased Dharam Pal who died in a motor vehicular accident.

Brief resume of the case is that on 16.12.2000 at about 4.30 AM, deceased Dharam Pal along with Khatak s/o Parkash was coming back from their relation in Khanpur and were proceeding towards his native village Bhatola in a maruti car bearing registration No. HR-51-G-6017. When they reached near

Mahavir Oil and Cold Store, GT Road, Faridabad, the said car dashed against the truck bearing registration No. DL-1-GA-6605 which was standing unattended on the GT Road without any signal or without putting any barricades. Dharam Pal (deceased) tried to stop the car but the same dashed into the offending truck due to which both the occupants of the car died at the spot. Accordingly, the claim petition was filed.

The learned Tribunal, after adjudication, partly accepted the claim petition and allowed a sum of ₹3,12,000/- to the claimants. The claimants have preferred the present appeal for enhancement of compensation. Issue No.1 regarding negligence has been determined against the driver of the offending vehicle and no cross appeal has been filed by the respondents.

Learned counsel for the appellants has submitted that the income of the deceased has been rightly taken as ₹3000/- per month as driver. However, the future prospects have not been taken into account while computing the amount of compensation. It is further contended that the multiplier applied by the Tribunal is also on lower side as the age of deceased was 33 years. It is further contended that the dependency has been calculated by deducting 1/3rd and less amount should have been deducted in respect of personal expenses. It is further submitted that no amount in respect of last rites, consortium, loss of love and affection has been allowed. To support this contention, he has

relied upon authority "**Rajesh and others v. Rajbir Singh and others**" 2012 (2) Apex Court Judgments 245 (SC).

On the other hand, learned counsel for the Insurance Company has submitted that future prospects cannot be taken into account as the deceased was not a government employee and was not in a permanent job. It is further submitted that in case the amount is enhanced, the recovery rights be also given.

I have considered the submissions made by both the sides and have gone through the records of the case.

In this case, the claimants are the widow, four minor children and mother of deceased Dharam Pal. The income of ₹3000/- assessed by the Tribunal has not been challenged by any of the party to the present appeal. So, the income of deceased has been rightly taken as ₹3000/- per month. However, in view of authority **Rajesh and others' case (supra)**, 50% should have been added in respect of future prospects. So, the income of deceased is taken as ₹4500/- per month by adding 50% in respect of future prospects. There are six claimants. In view of authority "**Sarla Verma and others vs. Delhi Transport Corporation and anr.**" 2009 (3) RCR (Civil) 77, 1/4th amount has to be deducted in respect of personal expenses. So, the dependency of claimants comes to ₹3375/- per month. The yearly dependency comes to ₹40,500/-. The deceased was aged about 33 years. As per **Sarla Verma and others' case (supra)**, the multiplier of 16 is applicable. So, by applying the multiplier of 16,

the amount of compensation comes to ₹6,48,000/-. The amount in respect of funeral expenses, consortium and loss of love and affection has to be allowed keeping in view the price index of the year 2000 as the accident took place in the year 2000. So, the claimants are held entitle to claim ₹15,000/- in respect of funeral expenses and transportation of dead body. Premwati-widow of deceased is also held entitle to claim ₹50,000/- on account of consortium. There are four minor children. So, the claimants are also held entitle to claim another sum of ₹50,000/- in respect of loss of love and affection. In this manner, the claimants are held entitle to claim ₹7,63,000/-. The enhanced amount shall carry interest @ 7.5% per annum. The liability to pay the amount shall remain the same as ordered by the Tribunal.

Disposed of accordingly.

JULY 03, 2015
shalini

(K. C. PURI)
JUDGE