

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

-.-

F.A.O No. 1075 of 2003

Decided on : February 02, 2015

Parkash Kaur & Ors.

... Appellants

Versus

Kuldeep Singh & Anr.

... Respondents

CORAM : HON'BLE MR.JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Ashok Jindal, Advocate, for the appellants.

Mr. Kuldeep Joshi, Advocate, for

Mr. Harsh Aggarwal, Advocate, for respondent No.1.

Mahavir S. Chauhan, J. (Oral)

Gurtej, a 45 years old engine mechanic, earning Rs.3000/- having died in a motor vehicle accident caused on 05.11.1998 at about 7 pm on account of rash and negligent driving of a Bus bearing registration No. PB-11C-9567 by respondent – Kuldeep Singh. His dependents, namely, Parkash Kaur, widow, Paramjit Singh and Gulab Singh, minor sons and Gurdev Kaur mother preferred Claim Application No.40 of 07.11.2001 alleging loss of dependency as the deceased was only bread winner for them.

The application was contested by the respondents.

From the pleadings of the parties, following issues were framed by the learned Motor Accident Claims Tribunal, Bathinda ('the Tribunal' – for short):-

1) Whether Kuldeep Singh respondent while driving Bus

No. PB-11-C-9567 rashly and negligently caused the death of Gurtej Singh?OPP

2) Whether the claimants are legal heirs and legal representatives of deceased Gurtej Singh?OPP

3) Whether the claimants are entitled to the grant of compensation? If so to what extent and from which of the respondents?OPP

4) Whether the claim petition is not maintainable in the present form?OPD.

5) Relief.

Both the sides adduced evidence and were heard by the learned Tribunal.

On appreciation of the evidence in the light of submissions made at the bar, learned Tribunal returned findings on the issue regarding factum and manner of occurrence in favour of the applicants and while deciding the amount of compensation payable to the applicants, assessed income of the deceased at Rs.3000/- and his age at 45 years.

I have heard learned counsel for the appearing parties.

There is no dispute with regard to these observations. However, by way of this appeal, applicants-appellants pray for modification of the impugned award and for enhancement of compensation by alleging that the compensation so awarded by the learned tribunal is on the lower side as though compensation for future prospects has been allowed but nothing has been allowed on account of loss of love and affection, loss of consortium, funeral expenses and loss of estate.

As aforesaid age of the deceased being 45 years and his income being Rs.3000/- per month are not in dispute. From the assessed income of the deceased, its 1/4th has to be deducted as expenditure of the deceased upon himself, number of dependents left behind him being four, the resultant figure comes to Rs.2250 per month or say Rs.27,000/- per annum. By adding 30% to the assessed loss of income towards future prospects, loss of dependency comes to Rs.35,100/- per annum. To the multiplicand, a multiplier of 14 has to be applied as age of the deceased was 45 years, which brings compensation on account of loss of dependency to Rs.4,91,400/-. Appellant – Parkash Kaur is also entitled to compensation of rupees one lac on account of loss of consortium, while appellants - Paramjit Singh and Gulab Singh are entitled to sum of rupees one lac on account of loss of love and affection. Besides this, appellants are also entitled to compensation amounting to Rs.25,000/- as expenditure on last rites of Gurtej Singh, the deceased and compensation amounting to Rs.5000/- on account of loss of estate. So calculated, total compensation payable to the appellants comes to Rs.7,21,400/-, which shall be inclusive of the compensation awarded by the learned Tribunal. Other terms of the impugned award shall remain unchanged.

With the aforesaid modification in the impugned award, the instant appeal is disposed of.

The applicants-appellants are also entitled to costs through out, which are assessed at Rs.2200/-.

[Mahavir S. Chauhan]
Judge

February 02, 2015
tripti