

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

FAO No.3318 of 2011 (O&M)

Date of decision : 10.09.2015

Urmila Chadha & others

...Appellants

versus

Jitender Kumar @ Jiten & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Nitin Thatai, Advocate
for the appellants.

Mr. Naresh Kumar, Advocate for respondent No.2.

None for respondent No.3.

Mr. Rohit Goswami, Advocate for
Mr. Vinod Chaudhri, Advocate for respondent No.4.

RITU BAHRI, J (Oral)

CM No.11356-CII-2011

The claimants after filing the appeal have filed an application under Order 41 Rule 27 on 07.03.2011 to place on record documents Annexures A-1 to A-5 to show that the deceased Shakti Chadha has participated in the interview for the post of Supervisor in Kinetic Marketing & Services Ltd., as per Annexures A-1 and A-2. His attendance register after being appointed as Supervisor in October 2006, his attendance in the office was shown as per Annexure A-3 and his salary slip is at Annexure A-4 and bank account is at Annexure A-5. The insurance company was given notice of this application, who has not chosen to file any reply to the application till date. After going

through these documents specially Annexure P-5, it can be concluded that the deceased was appointed as Supervisor in the Kinetic Marketing Services Ltd. and was earning Rs.6,000/- per month as per Annexure A-4.

Keeping in view that the HRA and other allowances have to be included in the salary as per the judgment of the Hon'ble Supreme Court in the case of *Vimal Kanwar & ors. Vs. Kishore Dan & ors.* *2013 (3) PLR 776*, the application is allowed and the documents Annexures A-1 to A-5 are taken on record.

FAO No.3318 of 2011

The appellants/claimants have come up in appeal against the award of the Motor Accidents Claims Tribunal, Ludhiana (hereinafter referred to as “the Tribunal”) dated 17.11.2010, whereby the Tribunal has awarded a compensation of Rs.3,14,000/- to the claimants on account of death of Shakti Chadha, who died in a road accident which took place on 10.12.2006.

The facts not in dispute are that on 10.12.2006, respondent No.1 asked the deceased Shakti Chadha to attend marriage of his friend at Khanna. After attending the marriage, respondent No.1 while driving his Indica Car No.CH-03-C2563 rashly and negligently at about 11.30 P.M. In the area of village Rajgarh, Tehsil and District Ludhiana, struck his car with a Truck bearing No.PB-10-H-9955 and the Indica Car caught fire in the accident. Deceased was sitting on front seat adjoining the seat of the driver. There were two more persons sitting in the said car namely Lavinder Singh and Davinder

Paul. All the occupants had escaped, but deceased could not come out of the car and he died due to burn injuries while sitting on the seat of car. Accident took place due to the rash and negligent driving of respondent No.1 resulting into death of Shakti Chadha. An FIR No.344 dated 10.12.2006 under Sections 279/304-A IPC at P.S.Payal, Ludhiana was lodged against respondent No.1.

On account of death of Shakti Chadha, the claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988, which was accepted by the Tribunal and a sum of Rs.3,14,000/- was awarded as compensation to the claimants on account of death of Shakti Chadha, after assessing the income of the deceased Shakti Chadha as Rs.3,000/- per month. 1/3rd amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.2,000/- per month. Shakti Chadha was about 33 years of age at the time of accident and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.3,12,000/- (2000x12x14). In addition to it, further compensation of Rs.2,000/- towards performing last rites has also been awarded. Hence the claimants were found entitled to total compensation of **Rs.3,14,000/-**.

Feeling dissatisfied with the impugned award, the appellants/claimants have preferred the present appeal.

I have heard counsel for the parties and perused the case file.

The fact of accident is admitted and proved. The deceased died as a result of the accident. The salary slip of the deceased Shakti

Chadha has also been proved as Annexure A-4 as per which his salary is Rs.6,003/- per month.

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments of Asha Verman & ors. Vs. Maharaj Singh & ors., 2015 (2) RCR (Civil) 520, Sarla Verma & ors. Vs. Delhi Transport Corporation & anr., 2009 (3) RCR (Civil) Page 77, Rajesh & ors. Vs. Rajbir Singh & ors., 2013 (9) SCC 54 and Munna Lal Jain & anr. Vs. Vipin Kumar Sharma & ors., 2015 (3) Recent Apex Judgments 459. Accordingly, the compensation is reassessed as under:-

Sr. No.	Heads	Calculation
(i)	Income	Rs.6,003/- per month (rounded upto Rs.6,000/-)
(ii)	Annual Income	Rs.6,000/- x 12 = Rs.72,000/- per annum
(iii)	50% of (ii) added for future prospects (age of the deceased was 33 years)	(Rs.72,000/-) + (Rs.36,000/-) = Rs.1,08,000/-
(iv)	Dependency of the claimant (mother) after deducting 50% of (iii) towards personal expenses of the deceased as the deceased was bachelor	(Rs.1,08,000/-) – (Rs.54,000/-) = Rs.54,000/-
(v)	Compensation after multiplier of 16 is applied	(Rs.54,000/- x 16) = Rs.8,64,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection to the mother	Rs.50,000/-
(viii)	Funeral expenses	Rs.25,000/-
(ix)	Total Compensation awarded [(v)+(vi)+(vii)+(viii)]	Rs.10,39,000/-
(x)	Enhanced amount of compensation	(Rs.10,39,000/-) - (Rs.3,14,000/-) = Rs.7,25,000/-

The enhanced amount of compensation of **Rs.7,25,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation

shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realisation, in view of the judgment of Hon'ble Supreme Court in the case of **Kumari Kiran through her father Harinarayan Vs. Sajjan Singh & ors., 2015 (1) SCC 539.** Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

10.09.2015
Vinay

(RITU BAHRI)
JUDGE