

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

**FAO No.4504 of 2011 (O&M)**  
**Date of Decision: July 23, 2015**

Pinky Devi and others

...Appellants

Versus

Om Parkash and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Sunil Kumar, Advocate  
for the appellant.

Mr.Suvir Dewan, Advocate  
for respondent No.3-Insurance Company.

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**INDERJIT SINGH, J.**

Appellants-claimants Smt.Pinky Devi, Harman Pal and Arman have filed this appeal against respondents Om Parkash, driver, Ram Kumar Gupta, owner, the Oriental Insurance Company Ltd., Insurer of truck bearing registration No.HR-58-5577 (offending vehicle) and proforma respondents Amro Devi and Ishra Ram, challenging the impugned Award dated 24.05.2010 passed by learned Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'Tribunal'), for enhancement of the compensation, which was awarded by the Tribunal, on account of death of Sanjeev Kumar.

The brief facts of the case are that claimants-appellants filed claim petition against respondents Om Parkash, driver, Ram

Kumar Gupta, owner, the Oriental Insurance Company Ltd., Insurer of offending vehicle, under Section 166 of the Motor Vehicles Act, 1988, on account of death of Sanjeev Kumar in a motor vehicular accident. It is mainly stated in the claim petition that on 07.03.2009 Sanjeev Kumar was going in car bearing registration No.DL-1CF-7159 along with Vinod Kumar and Randhir Singh. A Truck bearing registration No.HR-58-5577 (offending vehicle) was going ahead of them being driven by respondent-driver rashly and negligently and he suddenly and negligently applied the brakes and car hit the truck. Sanjeev Kumar received injuries and he was taken to LNJP Hospital, Kurukshetra but he succumbed to his injuries. FIR was also registered. At the time of accident, he was 27 years old and was working as taxi driver. He used to earn ₹10,000/- per month.

Upon notice, respondents denied the accident and other averments in the petition.

After framing of the issues and after going through the evidence on record, the Tribunal took the age of deceased as 27 years and after taking his income as ₹2400/- per month and after making deduction of 1/3<sup>rd</sup>, calculated the dependancy as ₹19,200/- per annum and by applying the multiplier of 16, the compensation was awarded as ₹3,07,200 and ₹5000/- was given for last rites etc.

Aggrieved from the above-said Award, present appeal has been filed by the claimants for enhancement of compensation.

Notice of motion was issued to respondent-Insurance Company and learned counsel for respondent No.3-Insurance

company appeared and contested the appeal.

At the time of arguments, learned counsel for the appellants-claimants argued that the income of deceased as assessed by the Tribunal is on lower side as he was a taxi driver. He next argued that as per law laid down by the Hon'ble Supreme Court in ***Smt.Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77***, multiplier of 17 should have been applied. He next argued that no future prospects have been given, no compensation on the ground of loss of consortium, funeral expenses, loss of love and affection has been given.

On the other hand, learned counsel for the Insurance Company argued that compensation has been correctly awarded by the Tribunal.

After hearing learned counsel for the parties and after going through the record, I find that the Tribunal has not awarded any amount regarding loss of consortium, love and affection, loss of estate and the income of the deceased has been assessed on lower side. The Three Judges' Bench of Hon'ble Supreme Court in the latest judgment in Civil Appeal No.4497 of 2015 (arising out of SLP(C) No.8362 of 2013 decided on 15.05.2015, granted 50% addition to the actual income of the deceased, while computing future prospects, who was below than 40 years of age. Therefore, the claimants-appellants are entitled to 50% future prospects. The deduction of 1/3<sup>rd</sup> is also incorrect and not as per law. Therefore, the compensation is liable to be enhanced.

Keeping in view the fact that deceased was a taxi driver, therefore, his income is take as ₹4000/- per month and compensation is liable to be enhanced as under:-

|                                              |                                |
|----------------------------------------------|--------------------------------|
| Income                                       | ₹4,000/- per month             |
| 50% future prospects                         | ₹4,000/- + ₹2,000/- = ₹6,000/- |
| Dependency by deducting 1/4 <sup>th</sup>    | ₹6,000/- - ₹1,500/- = ₹4,500/- |
| Annual dependency                            | ₹4,500/-x 12 = ₹54,000/-       |
| Compensation after applying multiplier of 17 | ₹54,000/- x 17 = ₹9,18,000/-   |
| Funeral expenses                             | ₹25,000/-                      |
| Loss of consortium                           | ₹1,00,000/-                    |
| Loss of love and affection to each minor     | ₹1,00,000/-x 2= ₹2,00,000/-    |
| Loss of estate                               | ₹10,000/-                      |
| Total compensation                           | ₹12,53,000/-                   |

In view of above, the appellants-claimants are entitled to total compensation of ₹12,53,000/- along with the same interest on the enhanced amount as awarded by the Tribunal from the date of filing of the petition till realization. The enhanced amount be disbursed to the claimants proportionately as per Award passed by the Tribunal.

Therefore, finding merit in the present appeal, the same is allowed accordingly.

July 23, 2015  
Vgulati

(INDERJIT SINGH)  
JUDGE