

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

FAO No.1110 of 2012

Date of decision: 9th January, 2015

Reeta Rani and others

... Appellants

Versus

Manoj Singh Rathie and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Parveen Sharma, Advocate
for the appellants.

None for respondents No.1 and 2.

Mr. Nitin Mittal, Advocate for
Mr. Subhash Goyal, Advocate
for the insurer/respondent No. 3.

FATEH DEEP SINGH, J.

Present appeal is by claimants Reeta Rani and others, heirs of deceased Mange Ram, for enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Karnal through impugned Award dated 29.07.2011.

After hearing Mr. Parveen Sharma, Advocate representing the claimant/appellants and Mr. Nitin Mittal, Advocate appearing on behalf of Mr. Subhash Goyal, Advocate for the insurer/respondent No. 3.

The mode of accident and resultant death which has been decided by way of issue No.1 has not been assailed by any of the respondents and thus, has attained finality.

It is well proved on the records that Mange Ram deceased at the time of his death in a motor vehicular accident on 13.10.2009 was aged around 29 years. The learned Tribunal on the basis of the testimony of the claimant Reeta Rani as PW1 has accepted the fact that the deceased who was B.A. Second year pass was also working with Home Television Channels Service Provider under the name of M/s M.M. Communication, Karnal. Though it is claimed that the deceased was getting ₹7,500 per month and as per the TDS certificate of this employer, the same is taken as ₹7,000 per month, but the learned Tribunal has considered the earnings of the deceased to be ₹5,000 per month taking him to be a semi-skilled worker and considering that the deceased was maintaining a motorcycle, a bank account and a mobile phone connection, has rounded off these earnings to ₹5,200 and the learned counsel for the appellants could not show how the same was not just and fair. The learned Tribunal has deducted 1/4 out of these earnings which is contrary to the provisions of law considering that the deceased has

left behind a widow, three minor children and aged parents and thus, in view of the ratio laid down in '**New India Assurance Company Ltd. v. Gopali and others**' reported in **2012 (3) RCR (Civil) 818**, deduction of 1/5 is the most appropriate and therefore, dependency comes to ₹4,160 per month and the annual dependency ₹49,920. Keeping in view age of the deceased multiplier of 17 needs to be applied in the light of '**Sarla Verma & others v. Delhi Transport Corporation & another**' reported in **2009(6) SCC 121** and therefore, compensation comes to ₹8,48,640 and thus, it is apparently clear that the learned Tribunal has misconstrued this vital fact and has undervalued the compensation. Furthermore, the learned Tribunal has lost sight of the fact that the family must have spent money on the last rites and ceremonies of the deceased besides the fact that widow needs to be compensated for the loss of consortium and the entire family for the loss of love and affection as well as protection and under all these conventional heads by some amount of guesswork and hypothetical calculations in view of the welfare nature of the Statute a sum of ₹2.00 lacs is awarded to the claimants. Therefore, total compensation comes to ₹10,48,640 (rupees ten lacs forty eight thousand six hundred forty).

Besides this, the claimants are also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be

adjusted. Rest of the stipulations laid down by the Tribunal shall remain the same.

Keeping in view the relative requirements of the widow and three children which are on the higher side being young and having a long life to go, they shall be entitled to 20% each of this total amount of compensation whereas the aged parents shall be entitled to 10% each of this compensation.

In the light of these discussions, the impugned Award is modified by way of acceptance of the appeal in those terms.

(FATEH DEEP SINGH)
JUDGE

January 9, 2015
rps