

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

FAO No.5779 of 2011

Date of Decision: January 23, 2015

Smt. Nirmal and others

...Appellants

Versus

Bhup Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sansar Kundu, Advocate
for the appellants.

Mr. Gulshan Mehta, Advocate
for respondent No.2.

Mr. V. Ramswaroop, Advocate
for respondent No.3.

FATEH DEEP SINGH, J.

The appellants who were claimants before the learned Tribunal are aggrieved over the meagreness of the award dated 13.6.2011 of the learned Motor Accident Claims Tribunal, Jind, whereby, a sum of ₹4,70,800/- was awarded along with interest for the death of Sonu deceased and have sought enhancement of the same. While adjudicating on issue No.1 the learned Tribunal has clearly held that Sonu died on 20.10.2010 while driving his three- wheeler bearing No. HR-56-6792 when offending truck No.HR56-4071 had hit him as a result of rash and negligent driving of the driver of the truck-Bhup Singh, and these

findings have remained unchallenged and, thus, attained finality.

Heard. It is writ large on the records and could not be controverted by the counsel for the respondent that the deceased at the time of his death was aged around 22 years and was married with claimant Nirmal but did not have any offspring and left behind besides his widow aged parents who are co-claimants. The very own stand of the claimants that the deceased was a auto driver and though claimed that he was earning ₹300/- per day, however, the Tribunal on the basis of this avocation has considered the earnings to be ₹120/ per day which is a reasonable amount and, therefore, ₹3600/ per month. The learned Tribunal has deducted 1/4th out of his own earnings which is on the higher side. Thus, keeping in view the size of the family and socio-economic status 1/5th needs to be deducted and therefore, the deceased must be contributing ₹2880/- and which is rounded up to ₹2900/- per month, and therefore, annual dependency comes to ₹34,800/-. Keeping in view the age of the deceased, multiplier of 18 needs to be applied in view of the law laid down in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77** and, therefore, compensation comes to ₹6,26,400/-. Besides this, the family must have spent money on the last rites and ceremonies of the deceased, though, it is duly admitted on behalf of the appellant that there is no evidence in this regard, however, keeping in view the welfare nature of the Statute and by some amount of guess work and hypothetical calculations a sum of ₹1,00,000 is awarded under these conventional heads. Thus, the total compensation comes to

₹7,26,400/- (Seven lacs twenty six thousand and four hundred) No other argument was raised. The compensation awarded by the Tribunal is certainly on the lower side and the same thus stands modified. The claimants shall be entitled to interest @ 7.5% per annum from the date of filing of the appeal till realisation. Interim compensation paid, if any, shall be adjusted.

Rest of the stipulations need not be disturbed.

The appeal stands allowed in those terms.

(FATEH DEEP SINGH)
JUDGE

January 23, 2015
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