

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

**FAO No.73 OF 2011 (O&M)
Date of Decision: April 9, 2015**

Kaushalya Devi and another

..... Appellants

Vs.

Kuldeep Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Ashish Yadav, Advocate
for the appellants.

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

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

KULDIP SINGH J. (ORAL)

This is claimants' appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal, (in short 'the Tribunal'), Gurgaon. The Tribunal had awarded a sum of Rs.5,26,000/- as compensation to the claimants on account of death of Narender Kumar, aged 22 years, who was unmarried son of the claimants.

As per the facts stated in the claim petition, on 20.02.2009 at about 12.30 a.m. (mid night), the deceased was travelling on motor cycle bearing registration No. HR-26 P-9014 along with one Hoshiar. The offending truck bearing registration No.HR-38 G-3266 had an accident with a van which was found on the middle of the road. Without any indication of the truck, the deceased hit the truck from behind, as a result of which, Narender Kumar was died.

I have heard learned counsel for the parties and have also carefully gone through the file.

Learned counsel for the appellants have argued that in this case, the deceased was also having income from the agricultural work which has not been considered by the Tribunal. However, there is no proof that the deceased was cultivating any land, therefore, alleged income from the agriculture rightly not considered.

Learned counsel for the appellants has further argued that in this case 50% deduction from the personal expenses has been done incorrectly, whereas 1/3rd should have been deducted.

The learned Tribunal has deducted 50% as personal expense considering the ratio of *Smt. Sarla Verma Vs. Delhi Transport Corporation (SC) 2009 (3) R.C.R. (Civil) 77, RAJ.373* and the same was correctly done. The multiplier of 18 was correctly applied. However, funeral expenses of Rs.20,000/- was awarded, whereas, it should have been Rs.25,000/-. The claimants were also awarded Rs.20,000/- on account of loss of love and affection. Learned counsel praying that it should be Rs.1,00,000/-.

It comes out that Insurance Company had not filed any cross appeal stating that there is a contributory negligence on the part of the claimants. Therefore, the finding of the Tribunal that the accident took place due to the rash and negligent driving of the offending truck.

In view of the authority of the Hon'ble Supreme Court in *Rajesh Vs. Rajbir Singh (2013) 9 SCC 54*, Rs.1,00,000/- on account of loss of love and affection is allowed. In this way, the total amount of compensation enhanced on account of loss of love and affection and funeral expenses

come to Rs.85,000/-.

Learned counsel for the appellants further argued that nothing was awarded on account of future prospects. The Tribunal took the salary of the deceased as Rs.4,510/-. He was working in Mechbulls Management Pvt. Ltd. The salary certificate Ex.P-4 was proved before the Tribunal, therefore, 50% income on account of future prospects is added. In this way, after applying the 50% cut on account of the personal expenses, it comes to Rs.1,125/-. Accordingly, the additional compensation comes to Rs.2,43,000/- (Rs.1,125/- X 12 X 18) is allowed on account of future prospects.

In view of the above, the claimant-appellants are held entitled to enhanced compensation of Rs.3,28,000/- as indicated above, over and above the amount already awarded by the learned Tribunal which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment in the same terms as indicated by the learned Tribunal, failing which, they shall also be entitled to interest as indicated in the award i.e. 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

(KULDIP SINGH)
JUDGE

April 9, 2015
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