

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

FAO No.5902 of 2012 (O&M)

Date of decision: 11.08.2015

Mithlesh Devi and others

....Appellants

Versus

Satnarayan and others

....Respondents

CORAM: HON'BLE MR. JUSTICE K.C. PURI.

Present: Mr. Parveen K. Rohilla, Advocate
for the appellants.

Mr. Avinit Avasthi, Advocate
for Mr. Anil Sharma, Advocate
for respondent No.2.

Mr. Vishal Aggarwal, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed by claimants widow, one daughter and three minor children of deceased-Rameshwar Dayal, for enhancement of compensation against the award dated 09.06.2012 passed by Sh. Kailash Chand Sharma, Motor Accident Claims Tribunal, Panipat, on account of death of Rameshwar Dayal on 13.11.2011 in a motor vehicular accident.

The learned Tribunal after adjudication partly accepted the claim petition and allowed a sum of Rs.4,36,200/-. The age of

the deceased was assessed as 50 years and his income was assessed as Rs.36,00/- per month. 1/4th amount was deducted in respect of personal expenses. The dependency was taken as Rs.2,700/- per month and the multiplier of 13 was applied and in this manner, the amount calculated was Rs.4,21,200/-. Rs.5,000/- were allowed in respect of consortium and Rs.10,000/- were allowed in respect of transportation of dead body and funeral expenses and in this manner, the total amount of Rs.4,36,200/- was allowed.

The claimants have directed this appeal for enhancement of compensation.

Learned counsel for the appellant has submitted that no amount in respect of loss of love and affection has been granted. It is further submitted that future prospects have not been taken into account. It is further argued that amount granted in respect of consortium and funeral expenses are on lower side.

On the other hand, learned counsel for the insurance company has submitted that the deceased was 50 years old and as such, no amount in respect of future prospects can be allowed. However, he has submitted that the amount in respect of loss of love and affection, funeral expenses and consortium has to be allowed.

I have considered the submissions made by learned counsel for both the parties and have gone through the record of

the case.

The income as well as age of the deceased has not been challenged during the course of arguments. So, the income of the deceased is taken as Rs.36,00/- per month and the age of the deceased is taken as 50 years. However, in authority "***Rajesh and others Vs. Rajbir Singh and others***" reported in 2013(3) R.C.R. (Civil) 170, the Hon'ble Apex Court has held that addition should be made to the extent of 30% amount in case, the deceased was in the age group of 40 – 50 years and 15% amount should be added in case, the deceased was in the age group of 50 – 60. As per the finding of the Tribunal the deceased was more than 50 years and as such, 15% amount stands added in respect of future prospects. So, the income of the deceased is taken as Rs.4,140/- by adding 15% amount in respect of future prospects. The dependents are five in number and as such, 1/4th amount has rightly been deducted by the Tribunal in respect of personal expenses. So, the dependency of the claimants comes to Rs.3,105/- per month after deducting 1/4th in respect of personal expenses. The yearly dependency comes to Rs.37,260/-. The age of the deceased has been assessed as more than 50 years. The Tribunal has applied the multiplier of 13 so, by applying that multiplier the amount of compensation comes to Rs.4,84,380/-. Another sum of Rs.25,000/- stands allowed in respect of expenses on last rites and transportation of dead body. Another sum of Rs.1,00,000/- stands

allowed in respect of consortium and another sum of Rs.1,00,000/- stands allowed in respect of loss of love and affection. So, in this manner, the claimants are held entitled to claim Rs.7,09,380/-, say Rs.7,10,000/-. These amounts have been granted by keeping in view the authority Rajesh and others case (supra) and “*Munna Lal Jain and another vs Vipin Kumar Sharma and others*” in Civil Appeal No.4497 of 2015 decided on 15.05.2015. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the enhanced amount shall be same as ordered by the Tribunal.

Appeal stands disposed of, accordingly.

A copy of this order be sent to the Tribunal for compliance.

11.08.2015
yakub

(K.C. PURI)
JUDGE