

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

**FAO No.793 of 2012 (O&M)
Date of Decision: April 20, 2015**

Gurpriya and another

.... Appellants

vs.

Virender Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Jastej Singh, Advocate for the appellants.

Mr. Suvir Dewan, Advocate for respondent No.3.

- 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, Yamuna Nagar at Jagadhri (in short 'the Tribunal').

Brief facts of the case are that on 27.03.2010, Gurmeet Kaur, mother of the claimants while going on her Activa Scooter bearing registration No.HR-02V-1581, was crushed by the offending truck bearing registration No.HR-69-A-0429. In this regard, FIR No.202, dated 27.03.2010, under Sections 279 and 304-A of the Indian Penal Code, 1860 was registered on the same day at Police Station City Yamuna Nagar. The Tribunal came to the conclusion that at the time of the accident, the deceased was 36 years of the age. Her income was treated to be ₹3,600/- per month as an ordinary

labourer. The multiplier of 15 was applied. ₹5,000/- for loss of estate and another ₹5,000/- for funeral expenses were awarded. In this way, the total compensation of ₹4,42,000/- in equal shares with interest @ 7.5% per annum from the date of filing of the claim petition till its realization was awarded to the claimants.

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

Learned counsel for the appellants has contended that the deceased was doing tuition work and her income was ₹6,000/- per month. In this regard, affidavit of one Subhash Mehendiratta (Ex.PW3/A) was produced to the effect that his two children were taught by the deceased and he was paying ₹1,000/- per month to her as tuition fees. However, the Tribunal negated the said evidence of Subhash Mehendiratta on the ground that no certificate for educational qualification of the deceased was produced to show that she was qualified or competent to teach the children.

The certificate of educational qualification is the best evidence to show that deceased was in a position to teach the children. The best evidence was kept away by the claimants before the Tribunal. Therefore, the oral testimony in this regard was rightly disbelieved by the Tribunal.

Learned counsel for the appellants has further argued that in this case, the deceased was below 40 years of the age. Therefore, 50% addition of the income on account of future prospects should have been added. It is further contended that no

compensation on account of loss of love and affection to the children has been awarded. The compensation awarded on account of loss of estate and funeral expenses is grossly inadequate and contrary to the pronouncement in case of “**Sarla Verma Vs. Delhi Transport Corporation**”, 2009(3) RCR (Civil) 77.

Since the income of the deceased was taken to be ₹3,600/- per month as an ordinary labourer, therefore, after adding 50% of the income on account of future prospects, the income of the deceased comes to ₹5,400/- per month. After deducting 1/3rd of the income i.e. ₹1,800/-, the income of the deceased comes to ₹3,600/- per month. After applying the multiplier of 15, the amount of compensation comes to ₹6,48,000/- (₹3600x12x15) only. ₹1,00,000/- on account of love and affection to the minor children are allowed. In place of ₹5,000/- each on account of loss of estate and funeral expenses, ₹25,000/- each are allowed. The amount of compensation thus comes to ₹7,98,000/- (rupees seven lac ninety eight thousand only). The enhanced compensation shall be paid to the claimants with interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

The appeal is accordingly allowed to the aforesaid extent.

April 20, 2015
sarita

(KULDIP SINGH)
JUDGE