

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

FAO No.97 of 2012(O&M)
DATE OF DECISION:09.01.2015

Smt. Satwati & anr.

...Appellants

Vs.

Rama Mukhiya & ors.

...Respondents

CORAM:- HON'BLE MR. JUSTICE MAHAVIR S.CHAUHAN

Present: Mr. Sandeep Kotla, Advocate
for the appellants.

Mr. Amninder.S.Sidhu, Advocate,
for respondent No.3.

MAHAVIR S.CHAUHAN, J.(ORAL)

Arjun, a 19 years old boy working as Master in a factory and statedly, earning Rs. 8,000/- per month, was killed in a motor vehicle accident caused on account of rash and negligent driving of a car bearing registration No.DL-3CAK-6079 by first respondent, namely Rama Mukhiya at about 4:30 p.m on 21.06.2010. The car belonged to respondent No. 2 M/s Dozco India Pvt. Ltd. and was insured with respondent No.3, i.e., I.C.I.C.I Lombard General Insurance Company Ltd. Smt. Satwati, mother and Kitab Singh, father of the deceased brought Claim Petition No.201 of 2011 to seek compensation alleging loss of dependency. Claim of the applicants was contested by the respondents by filing written statements.

From the pleadings of the parties Motor Accident Claims Tribunal, Panipat

(for short 'Tribunal'), framed issues. After the evidence on both the sides was complete, learned Tribunal assessed the same after affording an opportunity of hearing to both the sides. Ultimately vide award dated 01.09.2011, findings were recorded to the effect that the applicants were able to prove factum and manner of the accident but could not prove income of the deceased as alleged in the application and, accordingly, by treating the deceased to be an unskilled labourer, assessed income of the deceased at Rs. 3,000/- per month. After deducting 50% therefrom as expenditure by the deceased on himself, multiplier of eleven was applied and a compensation amounting to Rs. 2,50,300/- was awarded in favour of applicants namely Satwati and Kitab Singh.

Instant appeal has been brought up by the aforesaid applicants (appellants herein) to seek modification of the award dated 01.09.2011 and award of just compensation in favour of the appellants.

I have heard learned counsel for the parties.

There is no dispute with regard to the factum and manner of the accident. Learned counsel for the appellants also does not dispute the findings of the learned Tribunal assessing income of the deceased at Rs.3,000/- per month. He, however, relies upon judgments **Kishan Gopal and another Vs. Lala and others, 2013(4) RCR (Civil) 276, Rajesh and others Vs. Rajbir Singh and others, 2013(3) RCR(Civil) 170,** to show that

in these cases involving death of children below eighteen years a compensation amounting to Rs. 5 lacs was awarded by the Hon'ble Supreme

Court. Though it is contended on behalf of the respondent No.3 that multiplier of 16, at the most, can be applied to the assessed loss of the dependency and so calculated compensation payable to the applicants/appellants can not exceed Rs. 3,24,000/-. It, however, comes out from the record, that though an amount of Rs.42,300/- has been incurred on the treatment of the deceased but it has been denied to the applicants and only Rs. 10,000/- have been awarded towards expenditure on last rites and transportation etc. Thus, compensation evidently is on the lower side because in terms of Rajesh & ors. Vs. Rajbir Singh & ors(supra), compensation amounting to Rs. 25,000/- has to be awarded towards expenditure on last rites of the deceased and the applicants are also entitled to an amount of Rs. one lac on account of loss of love and affection and Rs. 10,000/- on account of loss of estate. So, after taking all this into account compensation payable to the applicants/appellants comes to Rs. 5, 01,300/-.

In view of the above the appeal is accepted and award passed by the learned Tribunal is modified to the extent stated above. However, the amount of compensation hereby awarded shall be inclusive of compensation awarded by the learned Tribunal. Further the appellant/applicants are found entitled to costs of this appeal, which are assessed at Rs. 2200/-.

Other terms of the impugned award shall remain unchanged.