

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

**FAO No. 1698 of 2013 (O&M)
Date of Decision:- 06.04.2015**

Amandeep Kaur

.....Appellant

Versus

Ishwar Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present: Mr. Rajbir Singh, Advocate for the appellant.

Mr. R.K. Bashamboo, Advocate
for Insurance Company.

SHEKHER DHAWAN, J.

Being dissatisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Sangrur (hereinafter to be referred as 'the Tribunal'), claimant Amandeep Kaur has filed the present appeal on account of death of her mother Bant Kaur (since deceased), for seeking enhancement of compensation.

2. Undisputed facts emerging from this case can be briefly stated as under: - On 28.05.2010, Smt. Bant Kaur along with her husband Lal Singh, son Jagtar Singh, daughter-in-law Beant Kaur and

grand-daughters Jassu and Mannu were going to Sullar Gharat on a tractor bearing registration No.PB-39-1396. Lal Singh was driving the tractor and Harbans Singh and his father Dalip Singh were following on their scooter. At about 10.00 A.M. when they reached in the area of village Mauran, a truck bearing registration No. PB-10-CH-9855, which was driven by respondent No.1 in a rash and negligent manner came from village Dirba side and struck against the tractor. Resultantly, all the occupants of the tractor sustained injuries. Jaspreet Kaur alias Jassu succumbed to the injuries and Jagtar Singh also succumbed to the injuries at PGI Chandigarh. The matter was reported to the police on 28.05.2010 by Harbans Singh.

3. Respondents contested the claim petition that the Tribunal after considering the material and evidence available on file, awarded compensation of ₹3,22,000/- to the present appellant-Amandeep Kaur, whereas the claim petition filed by Jasbir Singh, being son of Bant Kaur, was dismissed while recording the findings that he was a married son and not dependent upon the income of the deceased and as such the appeal before this Court.

4. Mr. Rajbir Singh, Advocate, learned counsel for the appellant took the plea that the Tribunal has fell in error while taking the income of deceased to be ₹3000/- only, whereas the income should have been taken up ₹5,000/- more and so no amount was to be deducted on account of self dependency because the wife/mother being house maker was providing services to the family and the same were evaluated and no amount was deducted on account of self dependency.

5. Learned counsel for the appellant also took the plea that the Tribunal has awarded a meager amount of ₹5,000/- on account of funeral expenses and another sum of ₹5,000/- on account of loss of Estate, whereas no amount has been awarded on account of loss of consortium and love and affection.

6. While arguing Mr. R.K. Bashamboo, Advocate, learned counsel for respondent No.3-Insurance Company took the plea that the Tribunal has rightly deducted 1/3rd amount on account of self dependency. The Tribunal has also rightly awarded no amount on account of consortium as her husband, namely, Lal Singh also died. Appeal is without any merit and the same be dismissed.

7. Having considered the rival contentions raised by learned counsel for both the parties, this Court is of the considered view that the facts are not disputed in this case that Bant Kaur was of the age of 46 years, as per post-mortem Ex.-A6. The income of Bant Kaur was not proved in any way to be ₹5,000/- per month, as claimed in the claim petition. The Tribunal has rightly assessed the income of the deceased to be ₹3,000/- per month. Multiplier of 13 has also been correctly applied in this case, keeping in view the age of the deceased to be 46 years.

8. As per law laid down by Hon'ble Supreme Court in case **Jitendra Khimshankar Trivedi and others vs. Kasam Daud Kumbhar and others**, 2015(1) RCR (Civil) 828, in case of death of woman, who was a housewife, 1/3rd is to be deducted on account of self dependency and the Tribunal has rightly awarded the compensation after deducting

1/3rd on account of self dependency. However, in this case, the Tribunal has not awarded adequate amount on account of funeral expenses and nothing has been awarded on account of love and affection. A sum of ₹5,000/- only has been awarded on account of funeral expenses. The same are assessed to be ₹25,000/- in the case and another sum of ₹50,000/- is awarded on account of love and affection for appellant, on account of death of her mother Bant Kaur. That way the enhanced amount of compensation in this case shall be ₹70,000/- (₹20,000/- on account of funeral expenses + ₹50,000/- on account of loss of love and affection) and the enhanced amount would be payable by the respondents within a period of one month accordingly. In case, the respondents fail to make the payment within the stipulated period, the appellant shall be entitled to recover interest @ 7½ % per annum. However, the remaining conditions regarding payment of amount of compensation/rate of interest and disbursal of amount shall remain unaltered.

9. Accordingly, the present appeal is accepted partly.

April 06, 2015
naresh.k

(SHEKHER DHAWAN)
JUDGE