

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

**FAO No. 3902 of 2013 (O&M)
Decided on : 20.07.2015**

Shakuntla and Others

...Appellants

Versus

Sunil Kumar and Others

...Respondents

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of Local Newspapers 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. Inderjit Sharma, Advocate
for the appellants.

None for respondents No. 1 & 2.

Mr. R.S. Madan, Advocate
for respondent No. 3-Insurance Company.

SHEKHER DHAWAN, J. (ORAL)

Appellants-claimants sought enhancement of compensation awarded by Motor Accidents Claims Tribunal, Ambala (hereinafter to be referred as 'The Tribunal'), vide award dated 26.02.2013, whereby 'The Tribunal' awarded compensation of ₹ 9,51,250/- on account of death of Jai Kumar in a motor vehicular accident.

'The Tribunal' has fastened the liability upon the respondents, but respondent-Insurance Company was directed to satisfy the claim and to recover the amount from driver and owner of the offending vehicle.

Learned counsel for the appellants took a plea that 'The Tribunal' has awarded compensation keeping in view the income of

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deceased and awarded future earnings as well. However, the appellant is aggrieved on that account 'The Tribunal' has not awarded minimum compensation under conventional heads i.e. loss of consortium for the widow, loss of love and affection for two minor children and funeral expenses of Rs. 25,000/-, as per law laid down by the Hon'ble Supreme Court in authority “**Rajesh and Others Versus Rajbir Singh and Others, (2013) 9 SCC 54**”.

Learned counsel for respondent No. 3-Insurance Company took the plea that 'The Tribunal' has already awarded just compensation. So, the appeal be dismissed.

Having considered the submissions made by learned counsel for the parties, this Court is of the considered view that 'The Tribunal' has ignored the fact that claimants are widow and two minor children as well and they were entitled to receive minimum sum of ₹ 1 lac on account of loss of consortium for the widow and a sum of ₹ 1 lac each for two minor children on account of love and affection and a sum of ₹ 25,000/- on account of funeral expenses. The Tribunal has just awarded a sum of ₹ 10,000/- on account of funeral expenses and ₹ 10,000/- for loss of consortium, that way appellants-claimants are entitled to receive enhanced compensation of ₹ 3,05,000/- (Rs. 1 lac on account on loss of consortium, ₹ 2 lacs on account of love and affection of two minor children and ₹ 25,000/- on account of funeral expenses i.e. ₹ 3,25,000 **minus** ₹ 10,000/- awarded on account of loss of estate and ₹ 10,000/- on account of funeral expenses and enhanced amount ₹ 3,05,000/-). The total amount of enhanced compensation ₹ 3,05,000/- shall be payable from the date of

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claim petition along with interest @ 7.5% per annum. However, the insurance company shall pay the enhanced amount to the appellants-claimants but shall have the right to recover the same from driver and owner of the offending vehicle i.e. respondents No. 1 and 2, respectively, as held by the Tribunal. The remaining terms and conditions regarding payment of interest and disbursal of amount shall remain unaltered.

Resultantly, the present appeal accepted partly.

July 20, 2015

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**(SHEKHER DHAWAN)
JUDGE**