

In the High Court for the States of Punjab and Haryana, at
Chandigarh

...

FAO-4451-2013(O&M)

Date of decision: 5.2.2015

Kusum Kaushik and another

Appellants

Versus

Tirlochan Singh and others

..Respondents

Coram: **Hon'ble Mr. Justice Mahavir S. Chauhan**

Present: Mr. Surender Deswal, Advocate
for the appellant.
Mr. M.B.Jain, Advocate
for the respondents.

Mahavir S.Chauhan, J.(Oral)

CM-18675-CII-2013

Heard.

In view of the statement made at the bar and the
circumstances mentioned in the application, delay of 11 days in filing
the appeal is condoned.

C.M. stands disposed of.

FAO-4451-2013

This is applicants' appeal to seek modification of award
dated 18.4.2013 passed by the learned Motor Accident Claims
Tribunal, Kurukshetra (for short, "the Tribunal") whereby compensation
amounting to Rs. 5,90,700/- has been awarded in favour of the
applicants-appellants on proof of the fact that deceased Nitin
Kaushik, a law student aged 22 years died in a motor vehicle

accident caused on account of rash and negligent driving of a vehicle Force Tempo Traveller bearing registration No. PB-01-7593 by respondent Tirlochan Singh on 28.3.2012.

The application was contested by the respondents. Issues were framed. Parties adduced evidence and were heard by the learned Tribunal. Findings on issue regarding factum and manner of occurrence were returned in favour of applicants. On the question of quantum of compensation, faced with the difficulty of absence of any evidence as regards earnings of the deceased, learned Tribunal assessed his income as Rs. 5,400/- per month and by making necessary deductions towards expenditure of the deceased on himself, loss of dependency was assessed at Rs.32,400/- per annum. Age of deceased being 22 years, a multiplier of 18 was applied to award compensation in favour of the claimants as herein before stated.

I have heard learned counsel for the parties.

Factum and manner of occurrence as also the age and assessed income of the deceased are not in dispute. In fact the only grievance raised on behalf of the applicants-appellants is that compensation for love and affection and loss of estate has been awarded on the lower side and that only a sum of Rs. 5,000/- has been awarded towards expenditure incurred on last rites of the deceased. Though on behalf of the respondent-insurer, the prayer is resisted but it is found that the impugned award has to be properly modified as nothing has been awarded for loss of love and affection

and loss of estate as also compensation awarded for expenditure on the last rites of the deceased is indisputably on the lower side.

Consequently, I modify the award and allow compensation to the applicants-appellants for loss of love and affection to the extent of Rs. 1,00,000/-; for loss of estate to Rs. 5,000/- and for funeral expenditure to Rs. 25,000/-. This, however, shall be inclusive of the compensation already awarded by the learned Tribunal under the heads of loss of estate and funeral expenditure. However, other terms of the impugned award shall remain unchanged.

The appeal is disposed of in the above terms.

February 5, 2015
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(MAHAVIR S. CHAUHAN)
JUDGE