

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

FAO No.4478 of 2013 (O&M)

Date of decision: 10.08.2015

Rekha Devi and others

....Appellants

Versus

Naim and others

....Respondents

CORAM: HON'BLE MR. JUSTICE K.C. PURI.

Present: Mr. Aayush Gupta, Advocate
for the appellants.

Mr. Kulwinder Singh, Advocate
for Mr. Sanjeev Goyal, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed against the award dated 12.04.2013, passed by Ms Ranjana Aggarwal, Motor Accident Claims Tribunal, Kurukshetra, by widow, minor son and father of deceased-Balwinder Singh, who died in a motor vehicular accident on 20.11.2010.

The learned Tribunal after adjudication partly accepted the claim petition and allowed a sum of Rs.7,68,000/-. The income of the deceased was taken as Rs.5,500/- per month. 1/3rd amount was deducted in respect of personal expenses. The yearly

dependency was taken as Rs.44,000/-. The deceased was 26 years and as such, the multiplier of 17 was applied. The amount of compensation was calculated as Rs.7,48,000/-. Rs.10,000 was allowed on account of transportation of dead body, funeral expenses and last rites and Rs.10,000/- was allowed on account of consortium. So, in this manner, Rs.7,68,000/- was allowed along with interest @ 7.5% per annum from the date of institution of claim petition till realization.

The claimants have directed this appeal for enhancement of compensation.

I have considered the submissions made by learned counsel for both the parties and have gone through the record of the case.

Learned counsel for the insurance company has submitted that it is a case of contributory negligence and he has relied upon authority "***Subhash Chand and others vs Satya Rani and others***" reported in 2014 (5) R.C.R. (Civil) 265.

I have considered the said submission, but do not find any force in that submission. The insurance company has accepted the liability by not filing the appeal against the award and it is only the claimants who have come in appeal for enhancement. Otherwise also, the authority Subhash Chand's case (supra), is not applicable to the facts of the present case as there is definite finding that accident has taken place due to rash and negligent

driving of offending truck. So, the abovesaid submissions made by learned counsel for the insurance company regarding contributory negligence stands rejected.

So far as the income of the deceased as Rs.5,500/- per month is concerned, that does not call for any interference. However, in view of authorities ***“Rajesh and others Vs. Rajbir Singh and others”*** reported in 2013(3) R.C.R. (Civil) 170 and ***“Munna Lal Jain and another vs Vipin Kumar Sharma and others”*** in Civil Appeal No.4497 of 2015 decided on 15.05.2015, 50% amount has to be added in respect of future prospects. Since, deceased was 26 years so, the income of the deceased is taken as Rs.8,250/- per month by adding 50% amount in respect of future prospects. 1/3rd amount has been rightly deducted in respect of personal expenses as claimants are three in number. So, the dependency of the claimants comes to Rs.5,500/- per month and the yearly dependency comes to Rs.66,000/-. The multiplier of 17 has rightly been applied at the age of 26 years. So, the claimants are held entitled to claim Rs.11,22,000/-. Another sum of Rs.20,000/- stands allowed in respect of expenses on last rites and transportation of dead body. The widow is held entitled to claim Rs.75,000/- in respect of consortium. The minor son and other remaining claimant are held entitled to claim Rs.75,000/- in respect of loss of love and affection. So, in this manner the claimants are held entitled to claim Rs.12,92,000/-. Out of the

enhanced amount 50% amount shall be paid to widow and remaining amount shall be shared equally between the remaining claimants. The share of the minor shall be deposited in a nationalized bank in the shape of FDRs in such a manner that he will get maximum rate of interest. The minor shall be entitled to withdraw the said amount after attaining the age of majority without any intervention of the Court. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the enhanced amount shall be same as ordered by the Tribunal.

Appeal stands disposed of, accordingly.

A copy of this order be sent to the Tribunal for compliance.

10.08.2015
yakub

(K.C. PURI)
JUDGE