

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

**FAO No.5181 of 2013
Date of decision: 02.07.2015**

Sukhdeep Kaur and othersAppellants

Versus

Parminder Singh and othersRespondents

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

Present: Mr. Vivek Suri, Advocate
for the appellants.

Mr. Sanjay Dhiman, Advocate
for Mr. Sumit Jain, Advocate
for respondent No.2.

Mr. D.P. Gupta, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

This is an appeal directed by widow and two sons of deceased-Gurdayal Singh claiming compensation on account of death of Gurdayal Singh in a motor vehicular accident.

The learned Tribunal after adjudication has partly accepted the claim petition and allowed a sum of Rs.2,26,000/- to the claimants. The income of the deceased has been taken as Rs.3,000/- per month. The dependency has been taken as Rs.2,000/- per month and the yearly dependency comes to

Rs.24,000/-. The age of the deceased was 60 years and the multiplier of 9 was applied. So, in this manner, the amount of compensation calculated was Rs.2,16,000/-(24,000 x 9). Another sum of Rs.10,000/- was allowed in respect of funeral expenses.

The claimants have directed this present appeal for enhancement of compensation.

Learned counsel for the appellant has submitted that deceased was a retired lineman and was drawing pension of Rs.14,142/- and the deceased was also working as an Electrician and was earning Rs.6,000/- per month. No amount in respect of consortium and loss of love and affection has been granted. The amount in respect of funeral expenses is on lower side. It is further contended that wages of skilled labourer in the year 2012 was Rs.5,443/-. It is further submitted that future prospects has not been considered.

In reply to the submissions made by learned counsel for the appellant, learned counsel for insurance company has submitted that deceased was getting a pension of Rs.14,142/- whereas the widow is getting the pension of Rs.14,000/- per month and as such, loss is of Rs.142/- and the amount granted by learned Tribunal is adequate. He has further submitted that deceased was a retired person, aged 60 years. The minimum wages would not applied to him as he might not be getting regular work after the age of 60 years.

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

The death has taken place on 03.08.2012. As per 'Mark-A' placed on record, which is an Identity Card issued by Election Commission of India, in which the age of the Gurdayal Singh has been mentioned as 46 years as on 01.01.1994. So, his age was more than 64 years at the time of accident. So, no amount in respect of future prospects can be given.

In the year 2012, the income of the deceased cannot be taken as Rs.3,000/- per month. The Tribunal has taken the income of the deceased on lower side. So, the income of the deceased is taken as Rs.5,000/- per month and by deducting 1/3rd in respect of personal expenses, the dependency comes to Rs.3,333.33/-. The yearly dependency comes to Rs.39,999.99/- (3,333.33 x 12) say Rs.40,000/-. At the age of 64 years, the multiplier applicable is 7, so by applying that multiplier, the amount of compensation comes to Rs.2,80,000/- (40,000 x 7). The claimants are also held entitled to claim Rs.25,000/- in respect of expenses on last rites and transportation, etc. in view of authority **“Rajesh and others Vs. Rajbir Singh and others”** reported in **2013(3) R.C.R. (Civil) 170**. The widow is also held entitled to claim Rs.1,00,000/- in respect of consortium. The claimants are also held entitled to claim Rs.50,000/- on account of loss of love and affection. So, in this manner, the claimants are held entitled to claim Rs.4,55,000.

The insurance company is also held liable to recover the enhanced amount from the owner and driver of the offending vehicle.

The liability to pay the enhanced amount shall be same as ordered by the Tribunal. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment.

Appeal stands disposed of, accordingly.

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

02.07.2015
yakub

(K.C. PURI)
JUDGE