

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

FAO No.5391 of 2013

Date of decision: 8th January, 2015

Lakshay

... Appellant

Versus

Kailash Chand and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Gaurav Khera, Advocate
for the appellant.

Service of respondents No.1 & 2 – dispensed with.

Mr. D.K. Prajapati, Advocate for
Mr. R.S. Madan, Advocate – Standing Counsel
for respondent No.3.

FATEH DEEP SINGH, J.

This is a challenge by way of appeal to a consolidated Award of learned Motor Accident Claims Tribunal, Rohtak dated 01.03.2013 whereby three different claim petitions stood disposed off. The present appeal is in regard to the claim lodged by Lakshay claimant for enhancement of compensation qua the death of his mother Suman.

After hearing Mr. Gaurav Khera, Advocate representing the claimant/appellant and Mr. D.K. Prajapati, Advocate appearing on behalf of Mr.R.S. Madan, Advocate for the insurer/respondent No.3.

The lone contention that is sought to be made pertains to the quantum of compensation qua the death of mother of the claimant/appellant in a motor vehicular accident that took place on 16.01.2011, when the deceased was sitting pillion on motorcycle bearing registration No.HR-05M-0951 being driven by her son Puneet (also deceased) husband of Neha claimant in other claim petition.

It is not put to question that the deceased was a housewife aged around 50 years which is well elaborated with the documentary proof by way of her post-mortem Ex.P3. Contentions of Mr. D.K. Prajapati on behalf of the insurer/respondent No.3 that there is no documentary proof of the earnings of deceased Suman though the claimant claims that she was doing business of selling Televisions and Radios etc. and was earnings ₹20,000 per month and it has been rightly concluded by the learned Tribunal based on the income tax returns Ex.P5 and Ex.P7 that it was in respect of the husband of the deceased who too subsequently died in due course of time. However, the argument that is sought to be raised on behalf of the appellant that even if the deceased is considered to be a pure housewife, her notional income has to be considered commensurate with her contribution to the running of the household.

Learned Tribunal has considered her contribution by way of notional income to be ₹3,000 per month and after necessary deductions, has considered the dependency to be ₹2,000 per month and which learned counsel for the respondent could not impress upon how the same was not just and fair and therefore, annual dependency comes to ₹24,000. Keeping in view the age of the claimant and that of the deceased, multiplier of 16 appears to be the most appropriate though the learned Tribunal has applied multiplier of 13 as it is not only age of the deceased that matters but the age of the claimant that also needs to be taken into account and therefore, compensation comes to ₹3,84,000.

Besides this, the family must have spent money on the last rites and ceremonies of the deceased, a young unmarried son has lost his mother and thus, on account of loss of love and affection as also grief including all other conventional heads the claimant is entitled to ₹1.50 lacs which the learned Tribunal has highly undervalued the same and therefore, total compensation comes to ₹5,34,000 (rupees five lacs thirty four thousand).

Besides this, the claimant is also entitled to interest @7.5% p.a. on the enhanced amount from the date of filing of the appeal till realization. Interim compensation paid, if any, shall be adjusted. Rest of the stipulations laid down by the Tribunal need not be disturbed.

No other argument has been raised.

With these discussions the impugned Award is modified by way of acceptance of the appeal in those terms.

**(FATEH DEEP SINGH)
JUDGE**

January 8, 2015

rps