

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.5739 of 2013 (O&M)

Date of Decision: 07.05.2015

Ankit and others

..... APPELLANTS

VERSUS

Jitender and others

..... RESPONDENTS

PRESENT: - Mr. J.S. Cooner, Advocate
for the appellants.

Mr. N.K. Bibyan, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent No.3-Insurance Company.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

- 1) Whether Reporters of the local papers may be allowed to see the judgment?
- 2) To be referred to the Reporters or not?
- 3) Whether the judgment should be reported in the Digest?

SHEKHER DHAWAN, J.

The claimants challenged the award dated 22.01.2013 passed by the Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'The Tribunal') whereby 'The Tribunal' awarded compensation of ₹8,25,600/- on account of death of Jaswant Singh.

Relevant facts for the purpose of disposal of the present appeal that Jaswant Singh (since deceased) was working as a contractor and was earning ₹8,000/- per month. He met with motor vehicle accident on 03.09.2010 while he was standing on the '*kaccha*' berm on the National Highway. At about 9.00 A.M., Truck bearing registration No.HR-68-A-1252 came from Pinjore side, which was being driven by respondent No.1 in a rash and negligent manner and hit against him. Resultantly, Jaswant Singh died on the spot. The matter was reported to the police. The claimants claimed compensation to the tune of ₹30 lacs.

The respondents contested the claim petition on all accounts.

'The Tribunal' after appreciating the evidence available on file awarded compensation to the tune of ₹8,25,600/-.

The claimants being dis-satisfied with the awarded amount of compensation are in appeal before this Court.

At the time of arguments, Mr.J.S. Cooner, Advocate for the appellants took the plea that 'The Tribunal' has not awarded 'just compensation' though Jaswant Singh was just of the age of 27 years and left behind five claimants which includes his widow, two minor children and parents of Jaswant Singh. 'The Tribunal' has not even

awarded minimum amount on account of funeral expenses, loss of consortium and love and affection. So, the amount of compensation be enhanced suitably.

Mr. N.K.Bibyan, learned counsel for respondent No.3-Insurance Company took the plea that 'The Tribunal' has already awarded 'just compensation'. More so, the matter regarding grant of compensation on account of future earnings is still pending with Larger Bench of Hon'ble Supreme Court and the claimants are not entitled to receive any amount on account of future earnings. The present appeal is without any merit and the same be dismissed.

Having considered the rival contentions raised by learned counsel for the parties, this Court is of the considered view that the income of the deceased has rightly been taken to be ₹4000/- per month as the accident had taken place on 03.09.2010. However, the Tribunal has not awarded 50% increase on account of enhanced future earnings. However, the Tribunal has awarded amount of compensation applying correct multiplier of 17. The claimants are entitled to receive the said amount on account of earnings of ₹4,000/- per month and enhanced future earnings to the extent of 50%. The Tribunal has also not awarded minimum amount on account of funeral expenses and consortium as well as love and affection as per law laid

down by Hon'ble Supreme Court in case of **Rajesh and others Vs. Rajbir and others**, 2013(9) SCC 54.

Accordingly, the amount of compensation is re-assessed as under:-

1	Annual income of the deceased	₹48,000/-
2	Increase after making of addition of 50% on account of enhanced future earnings (₹48,000/-+₹24,000/-)	₹72,000/-
3	Less ¼ on account of self dependency as claimants are five in number (₹72,000/--₹18,000/-)	₹54,000/-
4	Multiplier 17 (₹54,000x17)	₹9,18,000/-
5	Loss of consortium, as one of the claimant is widow of deceased (against ₹10,000/- already awarded)	₹1,00,000/-
6	Funeral Expenses (against ₹10,000/- already awarded)	₹25,000/-
7	Love and affection-Widow Mother Minor children	₹50,000/- ₹50,000/- ₹1,00,000/-
8	Total Less already awarded	₹12,43,000/- ₹ 8,25,600/-
9	Enhanced compensation	₹4,17,400/-

The enhanced compensation shall be payable from the date of claim petition. The enhanced amount shall be payable within 45 days from today failing which the appellants shall also be entitled to receive interest @ 7.5% per annum from the date of claim petition till actual payment.

However, the remaining conditions regarding

payment and disbursal of amount shall remain unaltered.

The appeal is accordingly partly allowed.

(SHEKHER DHAWAN)
JUDGE

May 07, 2015
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