

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

FAO No.5345 of 2014
Date of Decision: January 27, 2015

Poonam and others ...Appellants

Versus

Vijender Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ishan Singh Cooner, Advocate
for the appellants.

FATEH DEEP SINGH, J.

This is a challenge to an award dated 6.7.2013 of the learned Motor Accident Claims Tribunal, Ambala, whereby, two connected claim petitions stood disposed off. The appellants are before this Court by way of challenge to this award passed in MACT Case No.105 of 2012 titled as Poonam and others vs. Vijender Singh and others pertaining to the death of Sanjay Kumar Verma, husband, father and son of the claimants. The claimants have sought to assail the findings pertaining to the quantum of compensation and have sought to seek its enhancement.

Upon hearing learned counsel for the appellants. It is the evidence based on the testimony of claimant Poonam PW1 by way of Ex.PW1/A that her husband died in this accident that took place on 20.12.2011 and at that time was aged around 32 years. Though, she has claimed that her husband was running a grocery shop and was earning ₹12,000 per month, however, the

learned Tribunal has laid reliance on her admission in the cross-examination that she is unable to produce any document regarding the avocation and income of the deceased neither was able to bring about any income tax proof, VAT/ sale tax proof. Thus, in the light of this inability of the claimants upon whom the onus lay, the learned Tribunal has rightly concluded that the deceased in all probability keeping in view the socio-economic status must be earning as a labourer ₹3,000/- per month and has deducted 1/4th out of this earning for his own upkeep and maintenance and in the light of the number of dependants while seeking support from **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77** keeping in view the age of the deceased reflected in the post mortem report Ex.P4 the dependency compensation has been assessed to the tune of ₹8,64,000/-. It all stands reflected that the learned Tribunal has taken the earnings a bit on the higher side in view of the failure of the claimants to prove the avocation and income of the deceased. However, at the same time the learned Tribunal has awarded ₹20,000/- for transportation and funeral expenses, ₹20,000/- for loss of consortium and ₹25,000/- for loss of love and affection which ought to be on the higher side having regard to the young ages of the claimants and that of the deceased. Together with the fact that fathomless miseries are heaped upon the destitute family in such an eventuality. Though, the dependency compensation is on the upper side and under the conventional heads is on the lower side but the overall compensation is certainly just and fair and it is meaningless if under any of the heads the assessment is not appropriately

correct.

Thus, there being no perversity or illegality in these findings, the appeal being without any merit stands dismissed in limine.

(FATEH DEEP SINGH)
JUDGE

January 27, 2015
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