

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

**FAO-3863-2002 (O&M)
Date of decision: 29.01.2016**

Bhagan Devi @ Bagan Bai and others

...Appellants

Versus

Satbir Singh and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Kuldip Sanwal, Advocate for the appellants.

Mr. Nitin Goyal, Advocate for
Mr. Sanjay Gupta, Advocate for respondent No.1.

Mr. M. B. Jain, Advocate
for respondent No.3.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 19.03.2002, passed by the learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal').

The learned counsel for the appellants contends that at the time of accident the deceased, Bhagwan Dass was 48 years of age and the appellants were fully dependent upon him. The amount awarded under the conventional heads are on the lower side and deserves to be enhanced.

The learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.

I have heard the learned counsel for the parties and perused the record.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased was 48 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, an addition of 30% is ordered in the actual income of the deceased towards future prospects.

Further, keeping in view the age of the deceased and number of dependents, the multiplier of 13 deserves to be applied and deduction should be 1/4, in view of the judgments delivered by the Hon'ble Supreme Court in ***Sarla Verma vs. DTC 2009 (3) RCR (Civil) 77 and Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315***.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.11,138/- + 30% X 12 X 13 X $\frac{3}{4}$ = Rs.16,94,090/-, as against an amount of Rs.7,12,800/-, assessed by the learned Tribunal under this head.

Further, nothing has been awarded under the head 'loss of consortium' and 'cremation and last rites'. Accordingly, in view of the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170*** amount of Rs.1,00,000/- is awarded towards 'loss of consortium' payable to the wife of the deceased only and Rs.10,000/- under the head 'cremation and last rites'.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.10,91,290/- [Rs.9,81,290/- (enhancement towards 'loss of dependency') + Rs.1,00,000/- (towards 'loss of consortium', payable to the wife of the deceased only) + Rs.10,000/- (towards the head 'cremation and last rites')] as indicated above, in the manner prescribed in the impugned award, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

29.01.2016
ashok

(JITENDRA CHAUHAN)
JUDGE