

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

FAO No.1496 of 1995.

Date of Decision: 17.02.2016.

Smt. Chandro and others

....Appellants.

VERSUS

Rajan Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Manoj Sharma, Advocate for the appellants.

Mr. P.R. Yadav, Advocate for respondent No.1.

None for respondent No.2.

Mr. Suvir Dewan, Advocate for respondent No.3.

SNEH PRASHAR, J.

This appeal for enhancement of compensation was directed by appellants Chandro and others against an award dated 08.11.1994 passed by Motor Accident Claims Tribunal, Gurgaon (for short, “the Tribunal”) in MACT Petition No.15 of 1994.

The facts that emerge from the record are as under:-

On 19.12.1993 Tara Chand (since deceased) started from Sikanderpur for Gurgaon by means of a PWD truck bearing registration No.HRC-7228 driven by its driver Dinu. At 1:00 p.m., when they reached

near village Baliawas. One wheel of the truck got punctured. The truck was parked on the kacha berm on left side of the road and a jack was fixed under the punctured wheel. In the meantime, a truck bearing registration No.DL-1G-A-0769, (hereinafter referred as to “the offending truck”) being driven rashly, negligently and with high speed, came without blowing horn and hit Tara Chand who was walking on his correct side of the road. Because of the impact, Tara Chand sustained injuries which resulted in his death.

A petition claiming compensation under Section 166 of the Motor Vehicles Act, 1988 (for short, “the Act of 1988”) filed by legal heirs of deceased Tara Chand-appellants against driver, owner and insurer of the offending truck was allowed by the Tribunal and an amount of Rs.2,64,000/- alongwith interest at the rate of 12% per annum from the date of filing of the petition till realization of the amount was awarded to the appellants as compensation.

Feeling unsatisfied with the award dated 08.11.1994, the appellants preferred the instant appeal.

The submissions made by Mr. Manoj Sharma, learned counsel for the appellants, Mr. P.R. Yadav, learned counsel for respondent No.1 and Mr. Suvir Dewan, learned counsel for respondent No.3 have been heard and record perused.

Learned counsel for the appellants-claimants argued that deceased Tara Chand was employed as truck driver in PWD Department. It was proved by PW4 Bhagwan Dass, Senior Accounts Clerk, PWD that the deceased was drawing a salary of Rs.3247.25 paise per month. Although

learned Tribunal rightly assessed the monthly income of the deceased based on the salary being drawn by him, but 1/3rd of the income was wrongly deducted on account of personal and living expenses of the deceased when the dependents were four in number namely, widow, two daughters and a son. Relying on **Sarla Verma and otehrs vs. Delhi Trnasport Corporation and another, 2009(3) R.C.R. (Civil) 77** learned counsel pointed out that the deduction should have been 1/4th towards personal maintenance and upkeep of the deceased. Learned counsel further pointed out that no amount towards future prospects of the deceased was added to the income. Also the multiplier of '10' was adopted whereas it should have been '11'. Nothing was awarded towards loss of consortium, loss of love and affection and funeral expenses etc.

Indeed, as observed by learned Tribunal in Para No.8 of the award, the claimants examined PW4 Bhagwan Dass, Senior Accounts Clerk, PWD who produced the service record of the deceased. Besides proving the salary of the deceased, he stated that the deceased was to complete 55 years on 31.08.1994 when he was due to be given extension of three years and ultimately was to retire at the age of 58 years. The income of the deceased was rightly assessed as Rs.3247.25 paise per month. PW1 Smt. Chandro widow of the deceased testified that her son and daughters are all unmarried. There were four dependents on the income of the deceased namely his wife Chandro, son Sonu and daughters Satan and Batthi. As laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(3) R.C.R. (Civil) 77**, there being four

dependents, 1/4th of the income has to be deducted towards personal and living expenses of the deceased and remaining is the dependency of the claimants. Perusal of the award shows that no amount was added to the income computing future prospects. Applying the ratio of **Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170** as the age of the deceased was 54 years, the claimants are entitled to increase in the income of the deceased by 15%. Accordingly, the compensation payable to the appellants-claimants is calculated as under:-

1.	Monthly income (in Rupees)	Rs.3247.25
2.	Actual age of the deceased	54 years
3.	Increase in future income as per Rajesh and others' case (supra)	Rs.487.08
4.	Annual dependency	3/4 of Rs.3734.33 x 12 = Rs.33608/-
5.	Multiplier	11
6.	Total	3,69,698.67 (rounded as Rs.3,69,700/-)

In addition to the amount of Rs.3,69,700/- calculated towards dependency, an amount of Rs.1 lac is awarded to claimant No.1 Chandro Devi for loss of consortium. A further amount of Rs.1 lac is awarded to the appellants-claimants for loss of love and affection. In the above premise, the appellants-claimants are held entitled to compensation of Rs.5,69,700/- as indicated above.

Accordingly, the appeal is partly allowed and the award dated 08.11.1994 passed by the Tribunal is modified. The enhanced compensation in addition to the amount of Rs.2,64,000/- already awarded by the learned Tribunal shall be deposited by respondent No.3-insurance company within

45 days from the date of receipt of certified copy of this judgment failing which the appellants-claimants shall be entitled to interest on the enhanced amount at the rate of 7.5% per annum from the date of the appeal. The amount of compensation will be disbursed to the appellants-claimants in terms of shares/conditions incorporated in the award of the Tribunal.

(SNEH PRASHAR)
JUDGE

17.02.2016.
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