

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

**FAO No.1700 of 2003 (O&M)
Date of Decision: March 01, 2016.**

Krishna Devi and another

.....APPELLANT(s).

VERSUS

Sansar Chand and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sushil Bhardwaj, Advocate
for the appellant (s).

Mr. IPS Doabia, Advocate
for respondent No.2-CTU.

SURINDER GUPTA, J.

This is appeal filed by claimants, whose son Amit Singh (later referred to as the deceased) died in a motor accident with CTU bus bearing registration No.CH-01G-8145 (later referred to as the offending vehicle), seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (later referred to as 'the Tribunal').

2. The Tribunal on recording the finding that the accident had taken place due to rash and negligent driving of the offending vehicle by its driver, respondent No.1 awarded a lump sum amount of ₹1,25,000/- as compensation to the claimants.

3. As the appellants are only seeking enhancement of compensation, the detailed facts relating to the accident are being skipped

for the sake of brevity.

4. Learned counsel for the claimants has argued that the deceased was 19 years of age and was a student of B.A. 1st year. At the time of accident, he was doing part time job with Ravinder Computer Centre, Ambala City and earning ₹1,800/- per month. The Tribunal has also observed on seeing his education record that he was above average student. The Tribunal committed error by not assessing monthly income of the deceased, making addition towards future prospects or awarding any amount of compensation towards funeral expenses and loss of love and affection for the claimants.

5. Learned counsel for respondent No.2 has argued that the deceased was unemployed and was student of B.A. 1st year. No evidence was produced on record regarding income of the deceased. The claimants have taken the plea that he was working as part time employee with Ravinder Computer Centre, Ambala but neither the owner of that Computer Centre was examined nor any record of computer centre was produced to prove his income. In the facts and circumstances discussed above, the compensation of ₹1,25,000/- allowed by the Tribunal is just and reasonable, calling for no further enhancement.

6. Perusal of the award shows that the Tribunal discarded the statement of mother of the deceased that he (the deceased) was working on part time basis with a Computer Centre in Ambala. Keeping in view his age as 19 years and his status as student, allowed a lump sum amount of ₹1,25,000/- as compensation.

7. Even if, the deceased was young boy, who was unemployed and

non-earning member of the family, still his notional income could be assessed as a non-earning member. In case of ***Kishan Gopal and another vs. Lal and others, 2014 (1) SCC 244***, the accident had taken place in the year 1992 and parameters allowing compensation in case of ***Lata Wadhwa vs. State of Bihar 2001 (8) SCC 197*** were considered. In view of the rupee value coming down drastically from the year 1994, the notional income of the deceased, who was 10 years of age, was assessed as ₹30,000/- per annum. Keeping in view rising prices and inflationary trend during the years 1992 to 2000, it will be appropriate to take income of the deceased as ₹35000/- per annum. In case of a non-earning member of the family, no addition can be made towards future prospects as per observations in the case of ***Rajesh and others Vs. Rajbir and others (2013)9 SCC 54 and Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3) RCR (Civil) 447***. Deduction of 1/2 of the income of the deceased is made from his notional income towards his personal expenses. As per the observations in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121***, a multiplier of 18 can be applied to this case while calculating the amount of dependancy. The claimants are also entitled to compensation of ₹75,000/- towards loss of love and affection and estate and ₹15,000/- towards funeral expenses. The amount towards loss of love and affection and estate and funeral expenses has been assessed keeping in view the observations in case of ***Rajesh and others Vs. Rajbir and others (supra)*** in which the accident had taken place in the year 2004 and accident in question took place on 15.03.2000.

8. In view of my above discussion, the compensation to which claimants are entitled is tabulated as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹35000 per annum
(ii)	50% of (i) deducted as personal expenses of the deceased	₹35000 - ₹17500 = ₹17500
(iii)	Compensation after multiplier of 18 is applied	(₹17500X18) =₹315000
(iv)	Loss of love and affection and estate	₹75000
(v)	Funeral expenses	₹15000
<i>Total</i>		₹405000

9. In view of above, the instant appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Amit Singh is enhanced from ₹1,25,000/- to ₹4,05,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the claim petition till actual realization. The claimants are also entitled to costs of this appeal. Counsel fee is assessed at ₹10,000/-.

March 01, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE