

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

FAO No. 2215 of 2001(O&M)
Date of Decision: 01.03.2016

KRISHAN PAL AND ANR

....Appellants

Versus

HARI RAM AND ORS

....Respondents

CORAM:HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Aditya Kochar, Advocate for
Mr. Ashwani Talwar, Advocate
for the appellants.

Mr. Naveen Kaushik, Addl. A.G, Haryana.

SNEH PRASHAR, J.(Oral)

This appeal was filed by the appellants-claimants (parents) assailing the award dated 11.12.2000 passed by Motor Accident Claims Tribunal Panipat (for short, the Tribunal) in MACT case No. 162 of 1999 vide which a lump-sum amount of Rs.2,00,000/- was awarded as compensation on account of death of son of appellant namely, Dimpal aged 18/19 years in a motor vehicular accident that took place on 09.12.1998.

Submissions made by Mr. Aditya Kochar, Advocate representing the appellants and Mr. Naveen Kaushik, Addl. A.G., Haryana have been heard and record perused.

Learned counsel for the appellants-claimants submitted that the

son of the appellants was a student when he died due to the injuries sustained by him in a motor accident. Even though learned Tribunal held that the claimants could not prove that the deceased was a student and also observed that the age of the deceased being 18 years or 19 years made no difference, but it was wrongly concluded that he was not earning anything before he died. Learned Tribunal erred in not assessing the income of the deceased and not adhering to the method of applying appropriate multiplier to the earnings of the deceased for calculating the compensation to which the claimants were entitled to.

Indeed, it was noticed by learned Tribunal that the appellants in their pleadings got typed that the deceased was a student of B.com final year but by making correction with an ink pen they pleaded that he was a student of B.A.III year and subsequently, during evidence when Krishan Pal, father of the deceased, appeared in the witness box, he stated that his son was studying in B.com first year. No academic certificate or college/school certificate of the deceased was produced and for that reason it was rightly held by learned Tribunal that the appellants could not prove that the deceased was a student. But at the same time it was wrong on part of the Tribunal to conclude that he was not an earning member. When the deceased was not a student it could be well presumed that being a young boy aged 18/19 years he must be engaged in some work to supplement the income of the family. Awarding a lump sum amount as compensation was not justified.

The accident took place in the year 1998 and the deceased was

18/19 years old. Since the claimants could produce no evidence to prove his occupation or earnings, it would be appropriate to assess his income equivalent to what a daily wager could earn at the relevant time. Accordingly, his income is assessed as Rs. 2,000/- per month. The father, being the head of the family, must be earning for himself and his family and was not dependent upon the deceased as was laid down in Smt. Sarla Verma vs. D.T.C. and another 2009(3) RCR (Civil) 77. Accordingly the mother is the sole dependent, therefore, the deceased being an unmarried boy 50% of his income is to be deducted towards his own personal and living expenses. However, as per law laid down in Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170 there had to be an addition of 50% to the actual income of the deceased on account of future prospects, which the Tribunal failed to allow. Some amount was also required to be allowed to the mother for loss of love and affection. Accordingly, the compensation payable to the appellant-claimant No.2 is calculated as under:-

1.	Monthly income (in Rupees)	Rs.2000/-
2.	Actual age of the deceased	18/19 years
3.	Increase in future income as per Rajesh and others' case (supra)	Rs.2000+1000=Rs.3000/-
4.	50% Deduction towards personal expenses	Rs.3000-1500=Rs. 1500/-
5.	Annual dependency	1500 x 12=Rs.18000/-
6.	Multiplier	18,000 x 18=3,24,000/-
7.	Love and affection to mother	Rs.50,000/-
8.	Funeral Expenses	Rs.25,000/-
6.	Total	Rs.3,99,000/-

The amount awarded for loss of love and affection to the mother will be paid only if she is alive.

In the above premise, the appeal filed by the appellants-claimants is partly allowed and the award dated 11.12.2000 passed by the Tribunal is modified. The appellant-claimant No.2 is held entitled to compensation of Rs. 3,99,000/- including the amount already awarded by the tribunal. The enhanced amount of compensation shall be deposited by respondents 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.

March 01, 2016
rashmi

[SNEH PRASHAR]
JUDGE