

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

FAO-2715-2001
(MACT No.53 T of 14.9.98/17.5.99)
Date of decision: 8.2.2016

Bilkish Begum and others

...Appellants

Versus

Brij Lal and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mrs.GK Turka, Advocate for the appellants

Mr.Alok Jain, Advocate for respondent No.2.

Mr.Abhishek Goyal, Advocate
for respondent No.3- Insurance Company

SNEH PRASHAR, J.

The present appeal has been filed by the claimants-appellants, seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Patiala, vide award dated 13.12.2000, on account of death of Mohammad Khan due to the injuries sustained by him in a road side accident.

The submissions made by learned counsel for the appellant have been heard.

It is submitted on behalf of the appellants that the deceased was working as a Tailor and used to earn Rs.6000/- per

month, whereas learned Tribunal assessed his income as Rs.2000/- per month. No amount has been awarded towards loss of future prospects and also the multiplier of 12 applied by learned Tribunal is contrary to the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298**. It is further submitted that the amount awarded under the conventional heads is also inadequate.

Learned counsel representing the respondents controverting the above arguments has taken the stand that the compensation awarded is just and appropriate.

It is not in dispute that Mohammad Khan died due to the injuries suffered by him in a road side accident caused by respondent No.1, driver of the offending vehicle. The deceased was 34 years old at the time of his death. As per the claimants, the deceased was a tailor by profession and was earning Rs.6000/- per month. However, no substantive or documentary evidence could be produced by them to prove their contention. The only evidence available was the ocular testimony of AW1 Bilkish Begum wife of the deceased. Such being the facts learned Tribunal was right in assessing the income of the deceased as Rs.2000/- per month, which a casual labourer was able to earn in the year 1998.

The age of the deceased being 34 years, the multiplier applied by learned Tribunal i.e. 12 was on the lower side in view of the law laid down in Sarla Verma's case (supra), and therefore, the

same is increased to 16. Perusal of the award further shows that no amount has been awarded on account of loss of future prospects, therefore, in view of **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, as the deceased was 34 years of age, an increase in the income of the deceased by 50% towards future prospects is allowed.

No amount has been awarded towards loss of love and affection to the children. Untimely death of Mohammad Khan was a great shock to the claimants. He was the sole bread earner of his family. In view of pronouncement of Hon'ble Apex Court in **Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945** the amount awarded towards loss of consortium is enhanced to Rs. One lac and Rs. One lac is allowed on account of loss of love, care and guidance to both the children in equal share and Rs.25,000/- is allowed on account of last rites included already awarded.

Accordingly, the total compensation comes to Rs. 6,09,000/- i.e. Rs.2000/- (monthly income) + 50% (future prospects)- 1/3rd (deduction towards personal expenses of the deceased) x 12 x 16 (multiplier) + Rs.2,25,000 /- (conventional heads including already awarded). The enhanced amount of Rs.3,99,600/- (6,09,000-2,09,400 already awarded) be deposited by the Insurance Company within two months from the date of receipt of the certified copy of this judgment,

failing which, the same shall carry interest @ 7.5 % per annum from the date of filing of the appeal till its realisation. The enhanced amount shall be disbursed to the claimants -appellants in the manner indicated in this judgment as well as in the impugned Award.

In view of the above, the present appeal is partly allowed and the award is modified to the above extent.

8.2.2016
gsv

(SNEH PRASHAR)
JUDGE