

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

FAO-285-2001

Date of decision: 16.5.2016

Surji Devi and others

...Appellants

Versus

Randhir Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Praduman Yadav, Advocate for the appellants

Respondents No.1 and 2 ex-parte

Mr.Atul Gaur, Advocate for

Mr.Sumeet Goel, Advocate for respondent No.3

SNEH PRASHAR, J.

The claimants-appellants, the widow and sons of deceased Ram Chander, who lost his life in a road side accident that took place on 18.7.1999, filed the present appeal seeking enhancement of the compensation awarded to them by learned Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal') vide award dated 27.7.2000 passed in MACT case No.146 of 1999.

The submissions made by Mr.Praduman Yadav, Advocate representing the appellants and Mr.Atul Gaur, Advocate for respondent No.3 have been heard and record perused.

Learned counsel for the appellants submitted that the deceased was 50 years aged at the time of his death. He was an agriculturist and also a good grain trader and used to earn Rs.8000/- per

month. However, learned Tribunal without considering the said fact and without applying the multiplier method, awarded a lump sum amount of Rs.50,000/-, which is extremely low.

On the other hand, learned counsel for respondent No.3 resisting the prayer of the appellants submitted that the deceased being an old person was a non-earning member of his family. The compensation awarded by learned Tribunal is just and adequate.

There is no dispute regarding death of Ram Chander on account of the injuries sustained by him in a road side accident. The claimants did not produce any documentary evidence to show that the deceased was 50 years aged at the time of accident and the only document available on record is his post mortem report, wherein the age of the deceased was mentioned as 70 years. In absence of required documentary evidence, there is no reason to disbelieve the postmortem report, wherein the age of the deceased was mentioned as 70 years. Also, there being no substantive evidence regarding income of the deceased, considering his age, the income is assessed as Rs. 3000/- per month. Since, the deceased was 70 years old, following the law laid down in **Sarla Verma and others vs. DTC and another 2009 ACJ 1298** multiplier of 5 would be applicable. There being three dependents namely widow and two sons, deduction of 1/3rd towards personal and living expenses of the deceased has to be made.

Further a sum of Rs.one lac is allowed to the widow on account of loss of consortium and Rs.50,000/- to both the sons in equal shares for loss of love and affection. A sum of Rs.25,000/- is allowed on

account of funeral expenses.

Accordingly, the total compensation comes to Rs.2,95,000/- i.e. Rs.3000/- (monthly income) -1/3rd (deduction on account of personal and living expenses of the deceased) x 12 x 5 (multiplier) + Rs.175000/- (under conventional heads). The enhanced compensation amount of Rs.2,45,000/- (2,95,000- 50,000) shall be paid to the appellants within two months from the date of receipt of the certified copy of the judgment, failing which, it shall carry interest @ 7.5% per annum from the date of the filing of appeal till its realisation.

The present appeal is partly allowed and the impugned award is modified to the above extent.

16.5.2016
gsv

(SNEH PRASHAR)
JUDGE