

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

FAO-172-2004 (O&M)
Date of Decision: 24.05.2016

Bimla Devi

...Appellant

Versus

Bhinder Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. M.K. Garg, Advocate
for the appellant.

Mr. Sanjiv Pabbi, , Advocate
for respondent No.2.

JITENDRA CHAUHAN, J.

The present appeal has been preferred by the claimant-appellant, seeking enhancement of the amount of compensation awarded vide impugned award dated 06.09.2003, passed by learned Motor Accidents Claims Tribunal, Moga (for short, 'the Tribunal').

2. As per office report, respondent No.1 refused to accept notice. As such, he is proceeded against ex parte.

3. It is contended that the multiplier of 7 has been wrongly applied by the learned Tribunal, keeping in view the age

of the deceased at the time of his death in the accident. It is further contended that nothing has been paid to mother towards love and affection. It is further averred that the Tribunal did not award any compensation on account of future prospects. No other argument has been raised.

4. On the other hand, the learned counsel for the respondents opposes the prayer for enhancement of the compensation amount and state that just and reasonable compensation has already been awarded by the Tribunal.

5. I have heard the learned counsel for the parties and perused the record.

6. It is evident from the perusal of post mortem report, Ex.P5 that deceased was 19½ years of age at the time of death. He was a labourer with brick kiln which is duly established from the testimony of PW-4, Des Raj, manager of M/s Tri Murthy Gram Samiti, Talwandi Bhangarian, wherein it has come that deceased used to work as a modular on commission basis and had been earning Rs. 163/- per 1000 bricks and used to mould 20000 to 21000 bricks in a month. Positive evidence has come in the shape of testimony of PW-4 Des Raj, Manager of brick kiln. Deceased was a modular and had been working on commission basis and earning Rs.163/- per day. Even if it is taken that he was

working for 25 days a month, then his income can safely be inferred as Rs.4000/- per month. The learned Tribunal has applied multiplier of 7. Therefore, keeping in view the law laid down in *Smt. Sarla Verma Vs. DTC (2009) 6 SCC 121*, the multiplier of 7 is enhanced to 18. Furthermore, keeping in view the laid down in *Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54*, an increase of 50% is ordered towards future prospects of the deceased. The amount towards the head of future prospects shall be subject to furnishing of requisite indemnity bond. In this way, the compensation amount on account of 'loss of dependency' would come to Rs.4000/- + 50% X 12 X ½ X 18 = Rs.6,48,000/-, as against the amount of Rs.63,000/-, assessed by the learned Tribunal under this head. Further an amount of Rs.1,00,000/-, is awarded to the mother/appellant for loss of love and affection, in case, she is alive.

7. Respondent No.2-Insurance Company was directed to pay and then initiate recovery proceedings against respondent No.1 for recovery of the amount. Considering the fact that the liberty has already been granted to the insurance company to recover the amount, no further order in this regard is warranted at this stage.

8. In view of the above, the claimant-appellants are held

entitled to the enhanced compensation of Rs.6,85,000/- [Rs.5,85,000/- (enhancement towards loss of dependency) + Rs.1,00,000/- (enhancement loss of love and affection, payable to the mother of the deceased, on her furnishing affidavit)], as indicated above, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

9. With the aforesaid modification in the impugned award, the present appeal is partly allowed.

24.05.2016

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**(JITENDRA CHAUHAN)
JUDGE**