

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

**FAO-3845-2002 (O&M)
Date of decision: 01.03.2016**

Baljit Kaur and others

...Appellants

Versus

Haryana State and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. D. S. Brar, Advocate for the appellants.

Mr. Saurabh Mohunta, DAG, Haryana.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 16.04.2002, passed by the learned Motor Accident Claims Tribunal, Faridkot (for short, 'the Tribunal').

The learned counsel for the appellants states that the deceased, Godhi was 28 years old at the time of accident, therefore, the learned Tribunal has wrongly applied the multiplier of 15 in view of law laid down in **Sarla Verma Vs. DTC, (2009) 6 SCC 121**. Further, nothing has been awarded towards loss of future prospects, loss of consortium and funeral expenses.

On the other hand, the learned State counsel submits that a just and reasonable compensation has been awarded by the

learned Tribunal, therefore, he opposes the further enhancement in the same.

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

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased was 28 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, an addition of 50% is ordered in the actual income of the deceased towards future prospects. Further, as per the law laid down in ***Sarla Verma v. DTC (2009) 6 SCC 121***, the multiplier ought to have been 17 instead of 15, as assessed by the learned Tribunal and deduction should be 1/4 instead of 1/3, as the number of dependents is four.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.18,00/- + 50% X 12 X 17 X $\frac{3}{4}$ = Rs.4,13,100/-, as against an amount of Rs.2,16,000/-, assessed by the learned Tribunal under this head.

Further, nothing has been awarded under the head 'loss of love and affection'. Accordingly, in view of the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3)***

PLR 776, an amount of Rs.1,00,000/- is awarded to the children of

the deceased, in equal share.

Furthermore, it is noticed that the nothing has been awarded towards cremation and last rites and loss of consortium. Therefore, as per the law laid down in ***Rajesh's case (supra)*** amount of Rs.25,000/- awarded towards 'cremation and last rites' and Rs.1,00,000/- awarded under the head 'loss of consortium' shall be payable to the wife of the deceased only.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.4,22,100/- [Rs.1,97,100/- (enhancement towards 'loss of dependency') + Rs.1,00,000/- (towards 'loss of love and affection', payable to the children of the deceased, in equal share) + Rs.1,00,000/- (towards the head 'loss of consortium' payable to the wife of the deceased only) + Rs.25,000/- (towards cremation and last rites)] as indicated above, in the manner prescribed in the impugned award, 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.

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

01.03.2016

**(JITENDRA CHAUHAN)
JUDGE**