

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

**FAO No.1175 of 2009
Date of decision :21.01.2016**

Smt. Neelam Kumari and another

.....Appellants

Versus

Balraj and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. K.S. Dhaliwal, Advocate for appellants.

Mr. D.P.S. Bajwa, Advocate for respondents No.1 & 2.

DARSHAN SINGH, J.

The present appeal has been preferred by appellants-claimants against the award dated 25.11.2008 passed by learned Motor Accidents Claims Tribunal, Jind, (for short the 'Tribunal') vide which the claim petition filed by the claimants under Section 166 of the Motor Vehicles Act, 1988 (for short the 'Act') for grant of compensation on account of death of Dharabir Singh has been allowed and compensation to the tune of Rs.3,52,000/- has been awarded.

2. Learned counsel for the appellants contended that the wife of the deceased in her statement has stated that deceased was 26 years of

age but in the post mortem report his age has been mentioned as 35 years. The learned Tribunal has wrongly applied the multiplier of 13. The multiplier of 16 should have been applied. He further contended that income of the deceased has also been wrongly taken as Rs.3000/- per month. Even a labourer can earn Rs.4500/- per month.

3. Learned counsel for the respondents contended that the age of the deceased has been rightly taken into consideration by the learned Tribunal. The multiplier has also been applied rightly. He further contended that there was no proof regarding the income of the deceased. So, the learned Tribunal has correctly taken the income of the deceased to be Rs.3000/- per month. Thus, he contended that compensation awarded by the learned Tribunal is just and appropriate.

4. I have duly considered the aforesaid contentions.

5. Firstly, we take up the issue regarding income of the deceased. Deceased Dharambir was M. Phill in History with First Division from Kurukshetra University, Kurukshetra and at the time of accident he was a Research Scholar and was registered in Ph.D. Course (History) under the supervision of Dr. Sat Dev, Reader, Department of Ancient Indian History, Kurukshetra. It is alleged that he used to give tuitions to the students but no documentary evidence to this effect has been produced nor any pupil who was receiving tuition from the deceased has been examined. But there is no denial to the fact that deceased had a brilliant academic career and at the time of his death he was a Research Scholar. So, the income of the deceased taken by the Tribunal i.e. Rs.3000/- per month is on the lower side. The income of the deceased can

safely be taken to Rs.4000/- per month i.e. Rs.48,000/- per annum. After deducting 1/3rd income of the deceased towards his personal and living expenses the annual dependency comes to Rs.32,000/-. The age of the deceased has been determined by the learned Tribunal as 35 years. The learned Tribunal has applied the multiplier of 13, whereas, as the law laid down by the Hon'ble Apex Court in case ***Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77***, the multiplier of 16 should have been applied. So, the multiplicand comes to Rs.5,12,000/- ($32000 \times 16 = 5,12,000/-$) instead of Rs.3,12,000/-, as determined by learned Tribunal. So, there will be increase of Rs.2,00,000/- over and above the compensation awarded by the learned Tribunal.

6. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced by Rs.2,00,000/- raising the total amount of compensation/award to Rs.5,52,000/- instead of Rs.3,52,000/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realization @ 7.5% per annum, the rate of interest as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

21.01.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**