

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

FAO-5443-2008 (O&M)
Date of decision: 16.05.2016

Vikas @ Vicky Sangwan and others

...Appellants

Versus

Raj Kumar @ Raju and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rahul Deswal, Advocate
for the appellants.

Mr. Pardeep Kumar, Advocate for
Mr. Rajesh K. Sharma, Advocate
for respondent No.3.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 15.09.2008, passed by learned Motor Accidents Claims Tribunal, Karnal (for short, 'the Tribunal').

The arguments raised by the learned counsel for the appellants are that (1) less amount is awarded by the learned Tribunal towards loss of consortium; (2) nothing has been awarded towards loss of love, care and guidance to the children of the deceased, which is contrary to the law laid down in *Vimal Kanwar and others Vs.*

Kishore Dan and others, (2013-3) PLR 776; and (3) the learned Tribunal has erroneously made the deduction at 1/3rd as number of dependents are five.

On the other hand, the learned counsel for respondent No.3 has vehemently opposed the present appeal and stated that a just and reasonable compensation has already been awarded to the appellants.

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

Keeping in view the size of family, deduction should be 1/4th, in view of the judgment delivered by Hon'ble the Supreme Court in ***Sarla Verma vs. DTC***, 2009 (3) RCR (Civil) 77.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.7630/- X 12 X 13 X 3/4 = Rs.8,92,710/-, as against an amount of Rs.7,80,000/-, assessed by the learned Tribunal under this head. To make it a round figure, the payable amount of compensation shall be read as Rs.8,92,800/-.

Following the law laid down in Vimal Kanwar's case Rs.1,00,000/- towards loss of love and affection is payable to the mother of the deceased, only and an amount of Rs.1,00,000/- towards loss of love, care and guidance shall be payable to the children of the deceased, in equal shares.

Further, as per the law laid down in ***Rajesh Vs. Rajbir Singh***, 2013(3) R.C.R. (Civil), 170 (SC), amount of Rs.1,00,000/-

towards loss of consortium 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.4,00,800/- [Rs.1,12,800/- (enhancement towards loss of dependency) + Rs.1,00,000/- (towards loss of love and affection payable to the mother of the deceased, in equal shares) + Rs.1,00,000/- (towards loss of love, care and guidance payable to the children of the deceased, in equal shares) +Rs.88,000/- (enhancement towards loss of consortium payable to the wife of the deceased, only)] 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.

16.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**