

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

F.A.O. No.2511 of 2009 (O&M)

Date of Decision : 18.02.2016

Madhu Tyagi

..... Appellant

versus

Vijay Kumar @ Kalia and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Karan Singh, Advocate
for the appellant.

None for respondents No.1 and 2.

Mr. R.K. Bashamboo, Advocate
for the respondent No.3-insurance company.

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

AJAY TEWARI, J. (Oral)

This appeal has been filed by the claimants for the enhancement of compensation on account of death of Sh. Anuj Kumar Tyagi, aged 25 years, in a motor vehicular accident on 07.05.2006.

The Tribunal assessed the income at Rs.5000/- p.m. and by applying deduction of 2/3rd and multiplier of 12 awarded compensation Rs.4,80,000/- and further awarded Rs.10,000/- towards funeral expenses alongwith interest @ 7.5% p.a.

Learned counsel for the appellants has argued that even if the testimony that the deceased was earning 15,000/- p.m. is to be disbelieved yet considering the fact that the deceased was working as a reporter in a leading newspaper his income should have been taken as Rs.1 lac per annum which was the amount below the taxable limit in the year 2006.

Learned counsel for the respondent No.3-insurance company is not in a position to deny this fact but has argued that dependency of 2/3rd could not have been taken and it should be half since the deceased was an unmarried boy.

Learned counsel for the appellants is not in a position to deny this fact.

Learned counsel for the appellants has further argued that in terms of the judgment passed by the Hon'ble Supreme Court in *Munna Lal Jain & Anr vs Vipin Kumar Sharma & Ors, passed in Civil Appeal No.4497 of 2015, decided on 15.05.2015*, the multiplier had to be taken as per the age of the deceased i.e. 18 and not 12 as per the age of the claimants.

Learned counsel for the respondent No.3-insurance company has argued that the judgment passed in Munna Lal's case (supra) has not noticed the judgment passed by the earlier Hon'ble Three Judge Bench in the matter of *U.P. State Road Transport vs. Trilok Chandra & Others, decided on 7 May, 1996*.

Keeping in view the conflicting decisions of the Hon'ble Supreme Court and taking support from the decision of Division Bench of our High Court in *United India Insurance Company Limited v Raj Rani*

1998 (1) ACJ 175, in my considered view, the age of the deceased as well as the age group of the claimants is required to be taken into consideration while adopting a multiplier for determining the dependency to award compensation to the claimant in the present case.

Consequently, keeping in view the entire conspectus of facts, I hold that the income of the deceased should be taken as Rs.1 lac p.a. and the dependency should be calculated by applying the deduction of 1/2. I further award Rs.15,000/- more to the appellants towards funeral expenses. I further direct that multiplier of 16 should be applied. I further award an amount of Rs.1 lac towards loss of love and affection to the mother-appellant No.1.

The enhanced amounts shall carry the rate of interest @ 8% p.a. from the date of filing of the claim petition till realization. It is directed that the entire amount shall be disbursed to the appellant No.1.

The appeal is allowed in the above terms and the award is modified accordingly.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 18, 2016

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**(AJAY TEWARI)
JUDGE**