

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

FAO-3460-2009 (O&M)

Date of decision: 17.03.2016

Gurkirtan Kaur and another

...Appellants

Versus

Kewal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Mohd. Yousaf, Advocate,
for the appellants.

Service upon respondent No.2 is dispensed with.

Mr. Vinod Chaudhri, Advocate
for respondent No.3.

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JITENDRA CHAUHAN, J.

CM NO.28487-CII of 2014

Heard.

For the reasons contained in the application, same is
allowed and the present appeal is taken on board today itself.

Main Case

The present appeal has been preferred by the claimant-
appellants, seeking enhancement of the amount of compensation
awarded vide impugned award dated 18.12.2008, passed by the learned
Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal').

It is contended that the learned Tribunal has erred in

assessing the income of deceased Sampuran Singh at Rs.3,000/- per month, which deserves to be enhanced. It is further contended that nothing has been awarded towards the loss of love and affection and future prospects.

On the other hand, the learned counsel for the Insurance Company states that the learned Tribunal has rightly assessed the income of the deceased. Therefore, the present appeal is liable to be dismissed.

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

Keeping in view the fact that the deceased had set up a milk chilling center and had been operating the same, therefore, the income assessed by the learned Tribunal at Rs.3,000/- per month appears to be on lower side. As per the chart circulated by the Labour Department, Punjab, the minimum income for the highly skilled upper labourer comes to Rs.3,304/-. Therefore, this Court feels that the ends of justice would be adequately met, in case, the income of the deceased is assessed at Rs.4,000/- per month. It is ordered accordingly.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. As per the record the deceased was 46 years old 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 30% is ordered in the actual income of the deceased towards future prospects.

In this way, the amount of compensation under the head 'loss of dependency' would come to Rs.4,000/- + 30% X 12 X 13 X 2/3 = Rs.5,40,800/-, as against the amount of Rs.3,12,000/-, assessed by the learned Tribunal, under this head.

Further, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, amount of Rs. 1,00,000/- is awarded to the son of the deceased for loss of love, care and guidance and Rs.1,00,000/- is awarded to the mother of the deceased for loss of love and affection.

Furthermore, keeping in view the law laid down in ***Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54***, amount of Rs.2,000/-, awarded towards funeral expenses is enhanced to Rs.12,000/- and another amount of Rs.95,000/- is granted to the wife of deceased for loss of consortium.

In view of the above, claimant-appellants and respondent No.4 (son of the deceased) are held entitled to enhanced compensation of Rs.5,33,800/- [Rs.2,28,800/- (enhancement towards loss of dependency) + Rs.10,000/- (enhancement towards funeral expenses) + Rs.95,000/- (enhancement towards loss of consortium payable to the wife of the deceased only) + Rs.1,00,000/- (towards loss of love and affection payable to the mother of the deceased only) + Rs.1,00,000/- (towards loss of love, care and guidance payable to the son of the deceased only)], 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 certified copy of this judgment, failing which, they shall also be entitled to interest as indicated in the award i.e. 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.

17.03.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**