

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

**FAO-2710-2010 (O&M)
Date of decision: 21.01.2016**

Smt. Usha Rani

...Appellant

Versus

Ramesh Kumar and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Mansi Bansal, Advocate for
Mr. Sunil K. Sharma, Advocate for the appellant.

Mr. Purshotam Lal Singla, Advocate
for respondent Nos.1 and 2.

Ms. Vandana Malhotra, Advocate for respondent No.3.

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JITENDRA CHAUHAN, J.

For the reasons contained in the applications, same are allowed and delay of 85 days in re-filing and 39 days in filing, the appeal is condoned.

Main Case

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 12.01.2009, passed by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal').

The learned counsel for the appellant contends that the

claimant the widowed mother of the deceased, Karamjit Singh, aged 28 years was fully dependent upon the earnings of the deceased. The income assessed at Rs.2,400/- per month is on the lower side. The deduction at 66% is also against the law laid down by Hon'ble Supreme Court in ***Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54***. The amount awarded under the conventional heads is also on the lower side and deserves to be enhanced.

The learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.

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

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects of the deceased. Therefore, keeping in view the law laid down in ***Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54***, an increase of 50% is ordered towards the head of 'future prospects'. Further, keeping in view the age of the claimant, the multiplier of 13 deserves to be applied. The deceased might be spending 50% amount on himself and remaining on his mother, thus, 50% amount is ordered to be

deducted in respect of personal expenses. In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.2400/- + 50% X 12 X 13 X 1/2 = Rs.2,80,800/-, as against the amount of Rs.1,05,600/-, assessed by the learned Tribunal under this head.

Further, the amount of Rs.25,000/-, is awarded under the head 'cremation and last rites' and Rs.1,00,000/-, awarded in respect of 'loss of love and affection'.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.3,00,200/- [Rs.1,75,200/- (enhancement towards loss of dependency) + Rs.25,000/- (towards cremation and last rites) + Rs.1,00,000/- (towards 'loss of love and affection', payable to the mother 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.

21.01.2016

(JITENDRA CHAUHAN)
JUDGE