

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

FAO No.1533 of 2011(O&M)

Date of decision:6.9.2016

Anita and others

....Appellants

VERSUS

Krishan Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Ajay Ghangas, Advocate for the appellants.

Mr. T.K. Joshi, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Panipat (in short 'the Tribunal') in regard to death of Ram Niwas in a motor vehicular accident that occurred on 28.03.2008.

The Tribunal has assessed income of the deceased at Rs.3,000/- per month, deducted 1/3rd for personal expenses, adopted a multiplier of 15 to compute loss of dependency. In addition, an amount of Rs.10,000/- has been awarded for funeral expenses and Rs.5,000/- for loss of consortium, making total compensation to the tune of Rs.3,75,000/-.

Counsel for the appellants has submitted that as the deceased was driver of Tempo No.HR-67-3020 at the relevant time, his income is liable to be enhanced. Compensation awarded under conventional heads needs re-look and enhancement. The claimants are entitled to benefit of increase in income for future prospects in the light of judgments Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170 and Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (2) RCR (Civil) 945.

Counsel for the Insurance Company has supported the award.

I have heard counsel for the parties, perused the paper-book particularly the award passed by the Tribunal.

Ram Niwas (since deceased) met an unfortunate death while driving Tempo No.HR67-3020. He was a skilled worker being driver of a tempo. Taking a clue from the minimum wages fixed for a skilled worker by the State of Haryana available in March 2008, monthly income of the deceased is assessed at Rs.4,000/- per month. As the deceased was 40 years of age, benefit of future prospects to the extent of 50% is allowed in the light of judgment Rajesh and others case (supra). In this manner, loss of dependency comes to Rs.7,20,000/- [Rs.7,20,000/- (Rs.4000/- x 12 x 15) + Rs.3,60,000/- (50% towards future prospects) - Rs.3,60,000/- (1/3rd deduction towards personal expenses)].

Anita, widow of the deceased is awarded an amount of Rs.1,00,000/- for loss of consortium and an amount of Rs.1,50,000/- in equal share to the minor children for loss of love and affection. The appellants are allowed Rs.25,000/- each for funeral expenses and loss of estate.

In view of the above, total compensation payable to the appellants comes to Rs.10,20,000/- and the enhanced compensation is Rs.6,45,000/- (Rs.10,20,000/- - Rs.3,75,000/-), payable with interest at the rate of 7.5% per annum from the date of filing of petition till realization. The enhanced compensation to the extent of 60% shall be payable to widow of the deceased and the remaining 40% shall be shared by two children in equal ratio. The enhanced compensation payable to children of the deceased shall be deposited in a Fixed Deposit Receipt till they attain

the age of majority or 21 years, whichever is later and to the widow shall be deposited in a Fixed Deposit Receipt for a period of three years.

Disposed of accordingly.

SEPTEMBER 6, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no