

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

**FAO No.324 of 2011 (O&M)
Date of Decision: April 12, 2016.**

Chhinder Pal Kaur

.....APPELLANT(s).

VERSUS

Gurmit Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Parvez Chugh, Advocate
for the appellant (s).

Mr. Gaurav Gupta, Advocate for
Mr. Ashish Yadav, Advocate
for respondent No.3.

SURINDER GUPTA, J.

This is appeal filed by claimant Chhinder Pal Kaur seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Muktsar (later referred to as 'the Tribunal') for death of her son Ram Singh (deceased), in a motor vehicle accident with trollea bearing registration No. PB-04K-9032 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal relates to seeking of enhancement of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

3. The case of the appellant-claimant, in brief, is that on 20.01.2008, the deceased was going in car bearing registration No. DL-04-

SA-0019 with Sukhraj Singh, Gurmit Singh and Jagjit Singh. The deceased was driving the car, which was hit by the offending vehicle, resulting in his death at the spot.

4. The Tribunal recorded finding that the accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1 Gurmit Singh. While computing the amount of compensation, income of the deceased was taken as ₹3,000/- per month and by applying multiplier of 17, the amount of dependency was calculated as ₹4,08,000/- to which amount of ₹2,000/- was added as cremation charges.

5. Learned counsel for the appellant-claimant has argued that the deceased was 23 years of age. He was driver by profession. Owner of car bearing No.DL-4-SA-0019 was examined by the claimant as PW3, who has categorically stated that he was paying ₹4,000/- per month to the deceased as salary but his testimony was discarded by the Tribunal on the ground that no documentary evidence has been produced in this regard. In the villages, usually the owners of the cars, do not maintain any record of the salary of driver, they employ. In the year 2008, the salary of a driver, who can be equated with a skilled worker, could not be less than ₹4,000/- per month. The Tribunal has wrongly applied multiplier of 17 instead of 18 as per the ratio of law laid down in case of *Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121*. The claimant is also entitled to compensation of ₹1 lac for loss of love and affection and estate and ₹25,000/- for funeral expenses. As per the observations in cases of *Rajesh and others Vs. Rajbir and others (2013)9 SCC 54* and *Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil)*

447, 50% of the salary of deceased is to be added towards future prospects.

6. Learned counsel for the insurance company has argued that the deceased was 23 years of age. In the absence of any evidence on record, the Tribunal has rightly taken his income as ₹3,000/- per month and has awarded the compensation which is just and reasonable and call for no further enhancement.

7. The deceased was driver by profession. In case of ***Minu Rout v. Satya Pradyumna Mohapatra, (2013) 10 SCC 695***, Hon'ble Apex Court has equated the driver with a skilled worker and taken his salary as ₹6,000/- per month in the year 2004. The claimant has claimed salary of the deceased as ₹4,000/- per month and examined owner of the car with whom he was working as driver. Though no documentary evidence regarding the deceased has come on record but still keeping in view the fact that a skilled worker in the year 2008 could earn more than ₹4,000/- per month, it will be appropriate to accept the plea regarding income of the deceased as raised by the claimant and assess the income of the deceased as ₹4,000/- per month.

8. As per observations in case of ***Rajesh and others Vs. Rajbir and others (supra)*** and ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others (supra)***, the claimant is also entitled to 50% addition in the income of the deceased towards future prospects as the deceased was 23 years of age. The claimant is also entitled to ₹1,00,000/- towards loss of love and affection and estate. The amount of cremation/funeral expenses, which has been allowed as ₹2,000/- is also enhanced to ₹25,000/-. In this way, the claimant shall be entitled to compensation tabulated as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹4000 per month
(ii)	50% of (i) above to be added as future prospects	(₹4000+ ₹2000)= (₹6000 per month)
(iii)	1/2 of (ii) deducted as personal expenses of the deceased	(₹6000-₹3000)= ₹3000 per month
(iv)	Compensation after applying multiplier of 18 (as per case of <i>Sarla Verma (supra)</i>)	(₹3000X12X18)= ₹648000
(v)	For loss of love and affection and loss to the estate	₹100000
(vi)	Funeral expenses/Cremation charges	₹25000
<i>Total</i>		₹7,73,000

9. The appeal is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹4,10,000/- to ₹7,73,000/- for the death of Ram Singh. The amount of compensation will carry interest @ 7.5% per annum from the date of filing of the petition till actual realisation. Respondent No.3-insurance company will deposit the amount of compensation in the bank account of claimant or pay the same through demand drafts. The claimant shall also be entitled to costs of this appeal. The counsel fee is assessed ₹10,000/-.

April 12, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE