

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

FAO-6355-2011 (O&M)

Date of decision: 05.02.2016

Smt. Saroj Devi and others

...Appellants

Versus

Surender Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. J. P. Sharma, Advocate for the appellants.

Mr. B. K. Bagri, Advocate for LR's of respondent No.1.

Mr. R. K. Bashamboo, Advocate for respondent No.3.

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JITENDRA CHAUHAN, J.

CM No.25243 & 25245-CII of 2011

Despite availing sufficient opportunity no reply has been filed to the delay applications.

Heard.

For the reasons contained in the applications, same are allowed and delay of 51 days in re-filing and 84 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 27.11.2010, passed by the learned Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal').

The learned counsel for the appellants contends the amount awarded under the conventional heads are on the lower side and deserves to be enhanced. He further states that nothing has been awarded towards love and affection.

On the other hand, the learned counsel for respondent No.3-Insurance Company has vehemently opposes the present appeal and states that compensation awarded by the learned Tribunal is just and reasonable.

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

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 postmortem report Ex.PL, age of deceased Bir Singh was 35 years at the time of accident. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, an addition of 50% is ordered in the actual income of the deceased towards future prospects.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.6,000/- + 50% X 12 X 16 X $\frac{3}{4}$ = Rs12,96,000/-, as against an amount of Rs.8,64,000/-, assessed by the learned Tribunal under this head.

Further, nothing has been awarded towards loss of love and affection, therefore, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, an amount of Rs.1,00,000/- is awarded towards loss of love and affection payable to the children of the deceased, in equal share.

Moreover, the learned Tribunal has awarded Rs.5,000/- for loss of consortium, which in the opinion of this Court is inadequate. Therefore, as per law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, Rs.5,000/- is enhanced to Rs.1,00,000/- under the head Loss of consortium.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.6,27,000/- [Rs.4,32,000/- (enhancement towards 'loss of dependency') + Rs.1,00,000/- (towards loss of love and affection payable to the children of the deceased, in equal share) + Rs.95,000/- (enhancement towards loss of consortium payable to the wife 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.

05.02.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**