

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

FAO-2730-2012 (O&M)
Date of decision: 12.04.2016

Sunita and others

...Appellants

Versus

Ashok Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Mukesh Yadav, Advocate for the appellants.

None for respondent Nos.1 and 2.

Mr. R. M. Suri, Advocate for respondent No.3.

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JITENDRA CHAUHAN, J.

CM No.11793-CII of 2012

For the reasons contained in the application, same is allowed and delay of 3 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 03.12.2011, passed by learned Motor Accidents Claims Tribunal, Narnaul, (for short, 'the Tribunal').

It is contended that the learned Tribunal has erred in assessing the income of the deceased, Roshan Lal, a skilled driver at Rs.4,000/- per month. Nothing has been awarded towards loss of love and affection and loss of consortium. It is further contended that the

compensation awarded by the learned Tribunal under the conventional heads is also on the lower side and deserves to be enhanced.

On the other hand, the learned counsel for respondent No.3 has vehemently opposed the present appeal and states that a just and reasonable compensation has already been awarded to the appellants.

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

The learned Tribunal has assessed the income of the deceased at Rs.4,000/- per month, which in the opinion of this Court being less than the minimum wages, is inadequate. Therefore, this Court feels that the ends of justice would be adequately met, in case, the income of the deceased is assessed at Rs.4400/- per month as per the minimum wages at the relevant period. 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 PMR Ex.P3, deceased, Roshan Lal was 30 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh, 2013(3) R.C.R. (Civil), 170 (SC)***, 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.4400/- + 50% X 12 X 17 X 2/3 = Rs.8,97,600/-, as against an amount of Rs.5,44,000/-, assessed by the learned Tribunal under this head.

Furthermore, 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***, amount of Rs.1,00,000/- awarded towards loss of love and affection shall be payable to the children of the deceased in equal shares.

As per the law laid down in ***Rajesh's case (supra)***, amount of Rs.1,00,000/- towards loss of consortium awarded to the wife of the deceased, only.

In view of the above, the claimants are held entitled to the enhanced compensation of Rs.5,53,600/- [Rs.3,53,600/- (enhancement towards 'loss of dependency') + Rs.1,00,000/- (towards loss of love and affection payable to the children of the deceased, in equal shares) + Rs.1,00,000/- (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.

12.04.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**