

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

**FAO No. 6880 of 2011 (O&M)
Date of Decision: August 16, 2016.**

Dharminder Singh and others

.....APPELLANT(s).

VERSUS

Kamal Khushal and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate
for the appellant (s).

Mr. Aditya Kochar, Advocate for
Mr. Ashwani Talwar, Advocate
for respondent No.4.

SURINDER GUPTA, J.

This is an appeal against the award dated 03.02.2011 passed by Motor Accident Claims Tribunal, Chandigarh (later referred to as the Tribunal) whereby a compensation of ₹5,27,440/- was allowed for the death of Prabha Kumari (later referred to as 'the deceased') in a motor vehicle accident, which took place on 21.02.2009 due to rash and negligent driving of car bearing registration No. PB39-B-7002 (later referred to as 'the offending vehicle').

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

3. The Tribunal awarded ₹5,27,440/- as compensation to claimants, which was computed as follows:-

1.	Name of the deceased	: Prabha Kumari
2.	Age of the deceased	: 32 years
3.	Monthly salary	: ₹4043/-.
4.	Deduction towards personal expenses	: 1/3 rd
5.	Multiplier applied	: 16
6.	Loss of dependency	: ₹5,17,440/-
7.	Transportation & last rites expenses	: ₹10,000/-
	Total	: ₹5,27,440/-

4. Learned counsel for the appellants has argued that the Tribunal committed error while taking the monthly income of the deceased as ₹4,043/- and allowing no compensation for the services, she was rendering to the family being housewife and mother. She was in employment and the claimants are entitled to 50% addition in her income towards future prospects as per law laid down in case of *Rajesh and others Vs. Rajbir and others (2013)9 SCC 54* and followed in case of *Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447*. The Tribunal has also not awarded any compensation towards loss of love and affection, care and guidance to minor children i.e. claimants No.2 and 3 and loss of consortium to claimant No.1, who is husband of the deceased. Compensation allowed towards transportation and last rites of the deceased is also on lower side.

5. Learned counsel for respondent No.4 has argued that the Tribunal took the salary of the deceased as per her salary certificate (Ex.C4)

and has applied the multiplier as per the age of the deceased. The amount of compensation awarded by the Tribunal is just and reasonable keeping in view the price index prevailing at the relevant time.

6. As per the observations in case of ***Rajesh and others Vs. Rajbir and others (supra)***, claimants are entitled to 50% addition in the income of the deceased towards future prospects; claimant No.1 is entitled to ₹1 lac towards loss of consortium; and similar amount towards loss of love and affection, care and guidance is also allowed for claimants No.2 and 3. The deceased besides being in employment was also rendering services as housewife and mother to her family. The Tribunal has not assessed any income towards these services, which is computed as ₹1,000/- per month. The amount of ₹10,000/- awarded towards transportation and last rites is also on lower side and is enhanced to ₹25,000/-.

7. In view of my above discussion, the amount of compensation to which the claimants are entitled to, is re-assessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹4043 per month
(ii)	50% of (i) above to be added as future prospects	(₹4043+ ₹2021)= (₹6064 per month)
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	(₹6064-₹2021)= ₹4043 per month
(iv)	Value for services as housewife and mother	₹1000/- per month
(v)	Compensation after multiplier of 16 is applied	(₹5043X12X16)= ₹968256
(vi)	For loss of consortium	₹100000
(vii)	For loss of love and affection, care and guidance to minor children	₹100000
(viii)	Funeral and transportation expenses	₹25000
<i>Total</i>		₹11,93,256

8. The appeal has merits and is accepted. The award of the

Tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹5,27,440/- to ₹11,93,256/- for death of Prabha Kumari. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the petition till actual realization. The amount of enhanced compensation shall be apportioned between the claimants as per the award. Respondent No.3-insurance company will deposit the share of appellants-claimants in their bank accounts or pay the same through demand drafts. The share of minor Riya Negi and Jiya Negi-appellants No.2 and 3, who as per their age given at the time of filing of the petition are still minor, will be deposited in some nationalized bank as fixed deposits in their names till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minor claimants as required at the time of deposit of the amount and the minor claimants shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in their name after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal.

August 16, 2016.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

√
Yes/No

Whether Reportable:

√
Yes/No