

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

FAO-6917-2011 (O&M)
Date of decision: 12.05.2016

Smt. Sunita and others

...Appellants

Versus

Balbir Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. Nikita Bangar, Advocate for
Mr. Amarjit Singh, Advocate
for the appellants.

Mr. Bhupinder Singh, Advocate
for respondent No.1.

Mr. D. P. Gupta, Advocate
for respondent No.2.

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JITENDRA CHAUHAN, J.

CM No.28413-CII of 2011

After hearing the learned counsel for the parties and for the reasons contained in the application, which is duly supported by an affidavit, same is allowed and delay of 49 days in re-filing the present appeal is condoned, subject to all just exceptions.

CM is allowed as prayed for.

CM No.28414-CII of 2011

CM is allowed, as prayed for, subject to all just exceptions.

Main Case

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 02.05.2011, passed by learned Motor Accidents Claims Tribunal, Kurukshetra (for short, 'the Tribunal').

The arguments raised by the learned counsel appearing for the appellants are that (1) less amount is awarded by the learned Tribunal towards loss of consortium and funeral expenses (2) nothing has been awarded towards love and affection to the children of the deceased, which is contrary to the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others***, (2013-3) PLR 776.

On the other hand, the learned counsel for the respondents have failed to controvert the submissions raised by the learned counsel for the appellants.

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

The claimants are wife, two minor children and the parents.

Following the law laid down in Vimal Kanwar's case amount of ₹1,00,000/- 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 Vs. Rajbir Singh***, 2013 (3) R.C.R. (Civil), 170 (SC), another amount of ₹90,000/- towards loss of consortium payable to the wife of the deceased only and the claimants are also entitled for another amount of ₹5,000/- towards

cremation and last rites.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of ₹1,95,000/- [₹1,00,000/- (towards loss of love and affection payable to the children of the deceased, in equal shares) + ₹90,000/- (enhancement towards loss of consortium payable to the wife of the deceased, only) + ₹5,000/- (enhancement towards cremation and last rites)] 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.

12.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**