

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

FAO-3962-2012 (O&M)

Date of decision: 08.02.2016

Sukhwinder Kaur

...Appellant

Versus

Gurmail Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sandeep Sharma, Advocate for
Mr. Rajesh Bhatheja, Advocate
for the appellant.

Ms. Manpreet Kaur, Advocate for
Ms. Yogesh Goel, Advocate for respondent Nos.1 to 3.

Mr. Vinod Gupta, Advocate for respondent No.4.

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JITENDRA CHAUHAN, J.

CM No.16746-CII of 2012

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

Heard.

For the reasons contained in the application, same is
allowed and delay of 122 days in filing the appeal is condoned.

Main Case

This is claimant's appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 03.12.2011, passed by the learned Motor Accident Claims Tribunal, Moga (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 in view of law laid down in *Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315*, the learned Tribunal has erred in determining the multiplier on the basis of the age of the claimants-dependents, rather the same ought to have been applied on the basis of the age of the deceased.

On the other hand, the learned counsel for respondent No.3 states that the learned Tribunal has rightly applied the multiplier taking into consideration the age of the claimants-dependents.

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. It is not in dispute that the deceased Satnam

Singh was 18 years of age at the time of his death. 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.

Further, in view of the judgments delivered by the Hon'ble Supreme Court in ***Sarla Verma vs. DTC 2009 (3) RCR (Civil) 77 and Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315***, multiplier of 18 deserves to be applied instead of 9.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.4,000/- + 50% X 12 X 18 X 1/2 = Rs.6,48,000/-, as against an amount of Rs.2,16,000/-, 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***, an amount of Rs.1,00,000/- is awarded towards loss of love and affection. As per the law laid down in ***Rajesh's case (supra)***, amount of Rs.5,000/- awarded by the learned Tribunal, towards cremation and last rites is enhanced to Rs.15,000/-.

In view of the above, the claimant-appellant is held entitled to the enhanced compensation of Rs.5,42,000/- [Rs.4,32,000/-

(enhancement towards 'loss of dependency') + Rs.1,00,000/- (towards loss of love and affection) + Rs.10,000/- (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, she 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.

08.02.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**