

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

FAO-5111-2012 (O&M)
Date of decision: 28.03.2016

Miskeena and others

...Appellants

Versus

Ahesaan Khan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashish Gupta, Advocate for the appellants.

Mr. Satish Chaudhary, Advocate for respondent No.1.

Mr. Subhash Goyal, Advocate for respondent No.3.

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JITENDRA CHAUHAN, J.

This is claimant's appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 20.07.2012, passed by the learned Motor Accident Claims Tribunal, Nuh (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. Nothing has been awarded towards loss of love and affection and future prospects.

On the other hand, the learned counsel for the respondents state that the learned Tribunal has awarded a just and reasonable compensation and prays for dismissal of the present appeal.

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 Irshad was 26 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.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.4,000/- + 50% X 12 X 17 X 2/3 = Rs.8,16,000/-, as against an amount of Rs.5,44,068/-, assessed by the learned Tribunal under this head.

Furthermore, nothing has been awarded towards loss of love, care and guidance, therefore, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, amount of Rs.50,000/- awarded towards loss of love, care and guidance shall be payable to the mother of the deceased.

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/- and another Rs.95,000/- towards loss of consortium awarded to the wife of the deceased only.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.4,26,932/- [Rs.2,71,932/- (enhancement towards 'loss of dependency') + Rs.50,000/- (towards

loss of love and affection payable to the mother of the deceased only) + Rs.10,000/- (enhancement towards cremation and last rites) + Rs.95,000/- (towards loss of consortium payable to the wife of the deceased)] 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.

28.03.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**