

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

**FAO-764 of 2012(O&M)
Date of decision : 25.10.2016**

Dal Chand and others

..... Appellants

versus

Samsudin and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE REKHA MITTAL

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

Mr.F.S.Virk, Advocate for respondents No.1 and 2.

Mr.Rajneesh Malhotra, Advocate for respondent No.3.

REKHA MITTAL J. (Oral)

The claimants are in appeal seeking enhancement of compensation in respect of death of Manju Devi in a motor vehicular accident that took place on 18.10.2010.

The Motor Accidents Claims Tribunal, Nuh (in short “the Tribunal) assessed income of the deceased at Rs. 4000/-per month, deducted 1/3rd for personal expenses, adopted multiplier of 17 to compute loss of dependency to the tune of Rs. 1,81,334/-. In addition, the Tribunal has awarded an amount of Rs. 5000/- for loss of consortium, Rs. 2000/- as funeral expenses and Rs. 2500/- for loss of estate making total compensation of Rs. 1,90,834/- payable with interest at the rate of 6% per annum from the date of petition till realisation.

Counsel for the appellants would contend that as the deceased had been looking after a family consisting of her husband and two minor children besides meeting social obligations, notional income assessed by the Tribunal is on lower side. Further submitted that compensation awarded under conventional heads needs substantial increase.

Counsel for the insurance company, on the contrary, has supported the award with the submission that the Tribunal has rightly allowed compensation by taking into account second schedule appended to Section 163-A of the Motor Vehicles Act, 1988 (in short “the Act”).

I have heard counsel for the parties, perused the paper book particularly the award passed by the learned Tribunal.

The deceased was a young energetic woman and there was abrupt termination of her life. There is nothing on record suggestive of the fact that the deceased was suffering from any ailment rendering her unable to perform household duties besides giving love, care and protection to her children. Under these circumstances, notional income of the deceased is assessed at Rs. 7000/- per month. There would not be any deduction in the light of a Division Bench judgment of this Court **Paramjit Singh and another Vs. Dilbagh Singh alias Bagga and others, 2014(4) RCR(Civil) 895**. After applying multiplier of 17, loss of dependency comes to Rs. 7000 x 12 x 17 = Rs. 14, 28,000/-.

Under conventional heads, husband of the deceased is awarded an amount of Rs. 1 lac for loss of consortium, minor children are allowed an amount of Rs. 1.5 lacs in equal share for loss of love and affection and the claimants would be entitled to an amount of Rs. 25,000/- for expenses on funeral. Compensation of Rs. 2500/- on account of loss of estate awarded by

the Tribunal is set aside. The total compensation comes to Rs.17,03,000/- and enhanced compensation is Rs. 15,26,166/-. The enhanced compensation shall be payable exclusively to minor children of the deceased, to be deposited in fixed deposit receipts in any nationalised bank payable to them on their attaining the age of majority. The enhanced compensation shall carry interest at the rate of 7.5% p.a. from the date of petition till realisation.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

October 25, 2016
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No