

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

FAO-1388-2013 (O&M)

Date of decision: 14.03.2016

Gurmukh Singh and others

...Appellants

Versus

Narsi and others

...Respondents

FAO-1402-2013 (O&M)

Rishi Pal

...Appellant

Versus

Narsi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Hardeep Singh, Advocate for
Mr. B. S. Dhillon, Advocate
for the appellants.

Mr. S. S. Kharb, Advocate
for respondent No.1.

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

-.-

JITENDRA CHAUHAN, J.

By this single judgment, I shall dispose of the aforesaid
two appeals.

2. The above mentioned appeals i.e.FAO NO.1388 of

2013 and FAO NO.1402 of 2013 have been filed by the claimants, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Ambala, ('the Tribunal', for brevity) vide award dated 09.11.2012.

3. The learned counsel for the appellants-claimants in FAO No.1388 of 2013 contends that the deceased Vikram, aged 19 years, was a trained carpenter, therefore, the learned Tribunal has erred in assessing his income at Rs.4200/- per month, which deserves to be enhanced. Nothing has been awarded towards future prospects and loss of love & affection. The learned Tribunal has erroneously applied the multiplier of 14 on the basis of age of claimant No.2, the mother, however, the same ought to have been applied on the basis of age of the deceased. It is further asserted that the compensation awarded by the learned Tribunal is inadequate in view of the fact that the injured/claimant-Rishi Pal in FAO No.1402 of 2013 suffered multiple grievous injuries including fracture of his right leg and arm and serious injuries in stomach, eye and other parts of his body. He remained hospitalised from 27.06.2011 to 02.07.2011.

4. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeals and state that just and reasonable compensation have already been awarded to the appellants. However, the learned counsel admitted

that the injured suffered the aforesaid injuries.

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

6. So far the FAO No.1402 of 2013 is concerned, this Court feels that keeping in view the nature of injury and the fact that the same requires frequent visit to the doctor during treatment as well as for post operation treatment, this Court feels that another sum of Rs.10,000/-, awarded towards 'pain & suffering' and 'transportation', will meet the ends of justice. It is ordered accordingly.

7. The learned Tribunal, has assessed the income of the deceased at Rs.4200/- per month is inadequate being less than the minimum wages. Therefore, this Court feels that at the age of the deceased the amount fixed at minimum wage at least deserves to be granted. Accordingly, the income of the deceased is assessed at Rs.4400/- per month. It is ordered accordingly.

8. From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. As per the record the deceased Vikram was 19 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.

9. Further, keeping in view the age of the deceased, the multiplier of 18 deserves to be applied, 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***, which wrongly applied as 14 on the basis of age of the claimants by the learned Tribunal.

10. In this way, the amount of compensation under the head 'loss of dependency' would come to Rs.4400/- + 50% X 12 X 18 X 1/2 = Rs.7,12,800/-, as against the amount of Rs.3,52,800/-, assessed by the learned Tribunal, under this head.

11. Furthermore, 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 to the mother of the deceased for loss of love and affection.

12. In view of the above, the claimant-appellant in FAO NO.1388 of 2013 are held entitled to enhanced compensation of Rs.4,60,000/- [Rs.3,60,000/- (enhancement towards loss of dependency) + Rs.1,00,000/- (towards loss of love and affection payable to the mother of the deceased only)] and the injured-claimant in FAO NO.1402 of 2013 is held entitled for another amount of Rs.10,000/- towards pain & suffering and transportation, as indicated above, 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 as indicated in the award i.e. 7.5% per annum, from the date of filing the present appeal, till its realization.

13. With the aforesaid modification in the impugned award, the present appeals are partly allowed.

14.03.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**