

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

FAO-1490-2013 (O&M)
Date of decision: 18.03.2016

Smt. Jaraso Devi and others

...Appellants

Versus

Balbir Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Parminder Singh, Advocate,
for the appellants.

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

Mr. Amit K. Goyal, Advocate
for respondent No.2.

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JITENDRA CHAUHAN, J.

The present appeal has been preferred by the claimant-appellants, seeking enhancement of the amount of compensation awarded vide impugned award dated 13.05.2010, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal').

It is contended that the learned Tribunal has erred in assessing the income of deceased Nafe Singh at Rs.5,000/- per month, which deserves to be enhanced in view of the fact that he being the sole bread earner had been maintaining the whole family. Thus, his income was more than the income assessed by the learned Tribunal. It is further contended that nothing has been awarded towards the future prospects,

loss of love and affection and the same is contrary to the law laid down by Hon'ble Supreme Court in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776*** and ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170.***

On the other hand, the learned counsel for the Insurance Company states that the learned Tribunal has rightly assessed the income of the deceased. Therefore, the present appeal is liable to be dismissed.

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

There is no evidence with regard to the income of the deceased. Therefore, this Court feels that the learned Tribunal had rightly considered his income at Rs.5,000/-.

From the perusal of the award, it is noticed that the learned Tribunal had not awarded any compensation on account of the future prospects. As per the record the deceased was 45 years old 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 30% is ordered in the actual income of the deceased towards future prospects.

In this way, the amount of compensation under the head 'loss of dependency' would come to Rs.5,000/- + 30% X 12 X 14 X 3/4 = Rs.8,19,000/-, as against the amount of Rs.6,30,000/-, assessed by the learned Tribunal, under this head.

Further, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, amount of Rs.1,00,000/- is awarded to the children of the deceased for loss of love and affection, in equal share.

Furthermore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, another amount of Rs.90,000/- is granted to the wife of deceased for loss of consortium and amount of Rs.5,000/-, awarded towards funeral expenses is enhanced to Rs.10,000/-.

In view of the above, claimant-appellants are held entitled to enhanced compensation of Rs.3,84,000/- [Rs.1,89,000/- (enhancement towards loss of dependency) + Rs.5,000/- (enhancement towards funeral expenses) + Rs.90,000/- (enhancement towards loss of consortium payable to the wife of the deceased only) + Rs.1,00,000/- (towards loss of love and affection payable to the children of the deceased, in equal share)], 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 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.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

18.03.2016

**(JITENDRA CHAUHAN)
JUDGE**