

**111+246 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 1493 of 2013(O&M)

Date of decision : 04.05.2016

Renu and ors.

..... Appellant(s)

Versus

Hari Singh and ors.

.... Respondent(s)

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Harish Mehla, Advocate,
for the appellant(s).

None for respondent Nos. 1 and 2.

Ms. Vandana Malhotra, Advocate,
for respondent No.3.

JITENDRA CHAUHAN.J.

CM 9206-CII-16

Allowed as prayed for. Documents Annexure-P1 to P3 are
taken on record, subject to all just exceptions.

Main case

This is claimants' appeal seeking enhancement of the
amount of compensation awarded vide impugned award dated
03.12.2012, passed by learned Motor Accidents Claims Tribunal,
Kaithal (for short, 'the tribunal').

The learned counsel appearing for the appellant(s) has
raised twofold submissions i.e. that (1) less amount is awarded by the

learned Tribunal towards loss of consortium and (2) nothing has been awarded towards loss of love and affection to the minor daughter and mother of the deceased, which is contrary to the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others***, (2013-3) PLR 776.

On the other hand, the learned counsel for the respondent No. 3 has failed to controvert the submissions raised by the learned counsel for the appellants.

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

Following the law laid down in Vimal Kanwar's case amount of Rs.1,00,000/- towards loss of love and affection shall be payable to the minor daughter of the deceased and an amount of Rs.50,000/- shall be payable to the mother of the deceased.

As per the law laid down in ***Rajesh Vs. Rajbir Singh, 2013 (3) R.C.R . (Civil), 170, (SC)***, another amount of Rs. 95,000/- towards loss of consortium shall be payable to the wife of the deceased only.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.2,45,000/- [Rs.1,00,000/- (towards loss of love and affection payable to the minor daughter of the deceased) + Rs.50,000/- (towards loss of love and affection payable to the mother of the deceased) + Rs.95,000/- (enhancement towards loss of consortium payable to the wife of the deceased only), 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.

The finding with regard to the contributory negligence shall remain the same as determined by the learned Tribunal. Thus, 40% amount is to be deducted as amount of contributory negligence from the enhanced compensation assessed hereinabove and 60% amount is to be paid as award. In this way, the amount of enhanced compensation comes to $\text{Rs.}2,45,000 \times 60/100 = \text{Rs.}1,47,000/-$

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

04.05.2016
sumit

(JITENDRA CHAUHAN)
JUDGE