

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

FAO-1512-2013 (O&M)
Date of decision: 05.05.2016

Rajbir and others

...Appellants

Versus

Ramesh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Surender Saini, Advocate for the appellants.

None for the respondents.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 24.03.2011, passed by learned Motor Accidents Claims Tribunal, Sonapat (for short, 'the Tribunal').

Inadvertently, as per the order dated 18.01.2016, the learned counsel for respondent No.3 sought time for filing the reply to the delay application. In fact the delay has already been condoned vide order 20.11.2014.

It is contended that the appellants are four in number i.e. the husband of the deceased and their minor children, therefore, the learned Tribunal erred in making deduction at 1/3rd which is contrary to the law laid down in '**Sarla Verma vs. DTC**' 2009 (3) RCR (Civil) 77.

Nothing has been awarded towards future prospects. The amount awarded under the conventional heads are on the lower side and deserves to be enhanced. He cites '**Arun Kumar Aggarwal and another VS. National Insurance Co. and others.**', 2010(3) TAC 769.

I have heard the learned counsel for the appellants 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. As per the record, Sunita was 45 years of age at the time of her death. Therefore, keeping in view the law laid down in **Rajesh Vs. Rajbir Singh**, 2013(3) R.C.R. (Civil), 170 (SC), an addition of 30% is ordered in the actual income of the deceased towards future prospects.

Keeping in view the size of family, deduction should be $\frac{1}{4}^{\text{th}}$, in view of the law laid down in Sarla's case (supra).

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.3000/- + 30% X 12 X 14 X $\frac{3}{4}$ = ₹4,91,400/-, as against an amount of ₹3,36,000/-, assessed by the learned Tribunal under this head.

Furthermore, following the law laid down in **Vimal Kanwar and others Vs. Kishore Dan and others**, (2013-3) PLR 776, another amount of ₹96,000/- awarded towards loss of love and affection shall be payable to the children of the deceased, in equal share.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of ₹2,51,400/- [₹1,55,400/- (enhancement towards 'loss of dependency') + ₹96,000/- (enhancement towards loss of love and affection payable to the children of the deceased, in equal shares)] 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.

05.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**