

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

FAO-156-2013 (O&M)

Date of decision: 05.04.2016

Veena Rani and others

...Appellants

Versus

Krishan Lal and others

...Respondents

FAO-157-2013 (O&M)

Vikas Kumar @ Jony

...Appellant

Versus

Krishan Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashit Malik, Advocate
for the appellants.

Mr. Amrinder Singh Sidhu, Advocate
for respondent No.3.

Mr. Parminder Singh, Advocate
for respondent Nos.4 and 5.

Mr. N. K. Manchanda, Advocate
for respondent No.6.

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JITENDRA CHAUHAN, J.

Vide this common judgment I shall dispose of the aforesaid
two appeals.

This is claimant's appeal (FAO No.156 of 2013) seeking
enhancement of the amount of compensation awarded vide impugned
award dated 01.08.2012, passed by learned Motor Accidents Claims

Tribunal, Kurukshetra (for short, 'the Tribunal').

In another appeal i.e. FAO No.157 of 2013, the claimant-injured is seeking enhancement of the amount of compensation awarded vide aforesaid award, passed by the learned Tribunal.

It is contended that the learned Tribunal has not awarded anything towards the loss of consortium, future prospects and love and affection. He further states that the injured-Vikas Kumar has sustained multiple grievous injuries on his chest, abdomen, liver and remained hospitalized from 14.08.09 to 02.10.09 and 10.10.09 to 19.11.09. The injured was further operated upon thrice on 18.08.09, 30.08.09, 13.11.09. Lastly, the learned counsel contends that the amount awarded under the conventional heads are on the lower side and deserves to be enhanced.

The learned counsel for the respondents have vehemently opposed the relief sought by the appellants and stated that a just and reasonable compensation has been awarded by the learned Tribunal. However, the learned counsel admitted that the injured-Vikas Kumar had undergone the aforesaid surgeries.

I have heard the learned counsel for the parties and carefully perused the entire 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. It is not in dispute that deceased, Dharambir was 45 years of age at the time of his 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.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.4500/- + 30% X 12 X 14 X 3/4 = Rs.7,37,100/-, as against an amount of Rs.5,67,000/-, assessed by the learned Tribunal under this head.

Furthermore, nothing has been awarded towards loss of love and affection, therefore, 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/- awarded towards loss of love and affection shall be payable to the children of the deceased, Dharambir, in equal share.

As per the law laid down in ***Rajesh's case (supra)***, amount of Rs.10,000/- awarded by the learned Tribunal, towards cremation and last rites, is enhanced to Rs.15,000/- and Rs.1,00,000/- towards loss of consortium awarded to the wife of the deceased, Dharambir, only.

It is proved on record that the appellant-injured, Vikas Kumar, remained hospitalised for a period of 89 days. This is also not in dispute that the appellant-injured had undergone three surgeries, therefore, in the considered opinion of this Court, the amount paid towards pain and suffering is inadequate and to meet the ends of justice another amount of Rs.25,000/- awarded towards pain and suffering to the appellant-injured, Vikas Kumar.

In view of the above, the claimant-appellants in FAO No.156 of 2013, are held entitled to the enhanced compensation of

Rs.3,75,100/- [Rs.1,70,100/- (enhancement towards 'loss of dependency') + Rs.1,00,000/- (towards loss of love and affection payable to the children of the deceased, in equal share) + Rs.5,000/- (enhancement towards cremation and last rites) + Rs.1,00,000/- (towards loss of consortium payable to the wife of the deceased only)] and the appellant-injured in FAO No.157 of 2013, is held entitled to Rs.25,000/- (enhancement towards pain and suffering), 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 appeals are partly allowed.

05.04.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**