

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

FAO-1708-2013 (O&M)
Date of decision: 28.03.2016

Neelam Batra and others

...Appellants

Versus

Suraj Bhan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Pankaj Middha, Advocate for the appellants.

Mr. R. K. Kataria, Advocate for respondent Nos.1 and 2.

Mr. Sanjiv Pabbi, Advocate for respondent No.3.

-.-

JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 02.11.2012, passed by the learned Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal').

The learned counsel for the appellants contends that the learned Tribunal has wrongly applied the multiplier of 14 as the age of the deceased Ashok K. Batra was 40 years at the time of accident. Nothing has been awarded towards loss of love & affection, funereal expenses and future prospects.

On the other hand, the learned counsel for respondents have vehemently opposed the present appeal and state that a just and reasonable compensation has already been awarded to the appellants.

I have heard the learned counsel for the parties 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. It is not in dispute that the deceased Ashok K. Batra was 40 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.

Keeping in view the age of the deceased, the appropriate multiplier is '15' instead of '14'. Accordingly, multiplier of '15' is applied in view of the judgments delivered by the Hon'ble Supreme Court in ***Sarla Verma vs. DTC 2009 (3) RCR (Civil) 77***.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.7500/- + 50% X 12 X 15 X 2/3 = Rs.13,50,000/-, as against an amount of Rs.8,40,000/-, 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, in equal share.

As per the law laid down in ***Rajesh's case (supra)***, another amount of Rs.90,000/- towards loss of consortium awarded to the wife of the deceased only and amount of Rs.10,000/- awarded towards

cremation and last rites.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.7,10,000/- [Rs.5,10,000/- (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.10,000/- (towards cremation and last rites) + Rs.90,000/- (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.

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

28.03.2016
ashok

(JITENDRA CHAUHAN)
JUDGE