

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

FAO No.1942 of 2013(O&M)

Date of decision:4.10.2016

Birmati and another

....Appellants

VERSUS

Narender Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. A.K. Gahlawat, Advocate for the appellants.

Mr. A.S. Sidhu, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

Birmati and another, widow and son respectively of Attar Singh (since deceased) are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Bhiwani (in short 'the Tribunal') in regard to death of Attar Singh on 14.08.2010 on account of injuries sustained in a motor vehicular accident that took place on 11.08.2010.

The Tribunal assessed income of the deceased at Rs.4800/- per month, deducted 1/3rd for personal expenses, adopted a multiplier of 14 to compute loss of dependency at Rs.5,37,600/-. In addition, an amount of Rs.20,000/- has been awarded for loss of consortium, estate and funeral expenses, making total compensation to Rs.5,57,600/- payable with interest at the rate of 6% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects in the light of judgment Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR

(Civil) 170 and compensation awarded under conventional heads needs enhancement.

Counsel for the respondent (Insurance Company) has submitted that the claimants are not entitled to benefit of future prospects as the judgment in Rajesh and others case (supra) was rendered in April 2013 but the accident took place in August 2010.

I have heard counsel for the parties, perused the paper-book particularly the award passed by the Tribunal.

Though, the judgment in Rajesh and others case (supra) has been rendered by Hon'ble the Supreme Court on 12.04.2013 but the case pertains to an accident that took place on 05.10.2007. Even otherwise, it has nowhere been held in the judgment that benefit of future prospects would be available to cases in which the accident has occurred after the decision rendered by Hon'ble the Apex Court. As the deceased was 45 years of age, the claimants are allowed benefit of future prospects to the extent of 30%. After allowing benefit of future prospects, compensation qua loss of dependency comes to Rs.6,98,880/- [Rs.8,06,400/- (Rs.4800 x 12 x 14) + Rs.2,41,920/- (30% future prospects) – Rs.3,49,440/- (1/3rd deduction towards personal expenses).

The widow of the deceased is awarded an amount of Rs.1,00,000/- for loss of consortium and the son Rs.1,00,000/- for loss of love and affection. The appellants shall be entitled to an amount of Rs.25,000/- each for expenses on funeral and loss of estate.

In view of the above, total compensation comes to Rs.9,48,880/- and the enhanced compensation is Rs.3,91,280/- (Rs.9,48,880/- - Rs.5,57,600/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization. The enhanced

compensation shall be shared by widow and son of the deceased in the ratio of 70:30 and deposited in a Fixed Deposit Receipt for a period of three years.

Disposed of accordingly.

OCTOBER 4, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no