

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

**FAO No.2093 of 2013 (O&M)
Date of Decision:21.07.2016**

Smt. Sukhjeet Kaur and others

.....Appellants

Vs

Surjeet Singh and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

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

Mr. Rajneesh Malhotra, Advocate
for respondent No.3.

RAJ MOHAN SINGH, J.

[1]. Claimants-appellants have filed this appeal for enhancement of compensation against the award dated 06.12.2012 passed by the Motor Accident Claims Tribunal, Kurukshetra on the ground that the award is not in consonance with the settled principles of law.

[2]. Claimants filed petition under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 on the ground that accident took place on 23.09.2011 when Tejinder Singh was going from Ladwa to Village Kalarhari near Ambala Cantt on his motorcycle. He was followed by his brother Inderjeet Singh on

another motorcycle. Tejinder Singh was driving his motorcycle at a normal speed and on the left side of the road by observing all traffic norms. When he reached near Wadhwa Filling Station in the area of Police Station, Shahabad at about 5 p.m, offending vehicle came from behind and hit the motorcycle of Tejinder Singh. The tanker was being driven at a very fast speed in a rash and negligent manner. On account of impact, Tejinder Singh fell down and was run over by the wheels of tanker. After the accident, tanker turned turtle. Tejinder Singh died at the spot. The occurrence was witnessed by his brother Inderjeet Singh, Sultan Singh, Mewa Singh and many other persons. A criminal case bearing FIR No.267 dated 23.09.2011 was also lodged against the driver of the offending vehicle for the offences under Sections 279, 304-A IPC at Police Station, Shahabad on the statement of Inderjeet Singh.

[3]. Claimants submitted that the deceased was 30 years of age and was serving as Lance Nayak in Indian Army. He was posted at Pathankot at the time of his death. The salary of the deceased as per salary certificates has been proved to be Rs.22,382/- in October 2011 i.e. near proximity with the date of accident, otherwise for the preceding months, his gross salary was Rs.21,264 in the month of July, 2011, Rs.21,328 in the month of August, 2011 and Rs.21,428 in the month of September, 2011, but the salary was on increasing note and it was Rs.22,382 in the

month of October, 2011. Tejinder Singh was born on 10.06.1977 and was in Indian Army since 30.12.1996.

[4]. Motor Accident Claims Tribunal on perusal of salary slips Exs.P3 to P6 created suspicion with regard to other allowances given to the deceased and assessed the salary of the deceased as Rs.18,000/- per month.

[5]. Having perused documents Exs. P3 to P6, this Court finds that there is no ambiguity in the rise in the salary from month to month. The salary slips are unambiguous and gave true picture of the monthly salary of the deceased. Since the accident took place on 23.09.2011, therefore, salary for the month of October, 2011 has to be taken as relevant month for assessing monthly salary of the deceased. There cannot be any ambiguity with regard to other allowances which were not included in the pay slips which were exclusively towards gross salary per month. The evidence is unambiguous and monthly salary of the deceased has to be taken to be Rs.22,382/- for all intents and purposes.

[6]. With gross salary of Rs.22,382/- per month, the annual income of the deceased based on monthly salary comes out to be Rs.2,68,584/-. According to tax slab, income beyond 2 lakhs has to be treated to be taxable income. In this way, an amount of Rs.6,858/- has to be deducted being 10 % of the taxable income. After deducting tax amount of Rs.6,858/- being 10% as income tax, the yearly amount comes out to be Rs.2,61,726/-. Since

deceased was a Government employee being army man, therefore, 50% of the salary has to be added in respect of future prospects in view of **Rajesh and others Vs. Rajbir Singh and others, 2013 (9) SCC 54**. By adding amount towards future prospects, the annual amount comes out to be Rs.3,92,589/-.

[7]. The claimants are five in number, therefore, in the light of dictum laid down in **Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77**, 1/4th amount has to be deducted in respect of personal expenses of the deceased. After deducting 1/4th in respect of personal expenses, the amount of dependency comes out to be Rs.2,94,442/-. The deceased was 34 years of age at the time of accident, so, in view of **Sarla Verma's case (supra)** the multiplier applicable to the age group of 31-35 years i.e 16 is to be applied. Therefore, after applying multiplier of 16, the total amount of compensation comes out to be Rs.47,11,072/-. Based on the ratio laid down in **Rajesh and others Vs. Rajbir Singh's case (supra)**, an amount of Rs.1 lakh has to be awarded towards consortium, an amount of Rs.1 lakh has to be granted towards loss of love and affection and Rs.25,000/- towards funeral expenses. In this way, the amount under these conventional heads comes out to be Rs.2,25,000/- and if this amount is added to the amount already calculated, the total amount of compensation comes out to be Rs.49,36,072/-. In

this manner an amount of Rs.26,17,072/- stands enhanced in addition to the amount already awarded by the Tribunal. The liability to pay the enhanced amount shall remain the same as ordered by the Tribunal. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of the claim petition till final realisation of the amount.

[8]. Out of the enhanced amount 50 % amount shall be paid to the widow and remaining amount shall be shared by all the remaining claimants in equal share. The amount of share of minors shall be kept in the shape of FDR with a nationalized bank in such a manner that the minor shall get maximum rate of interest. The minors shall be at liberty to get the amount after attaining the age of majority without intervention of the Court. The mother of the minor children is at liberty to claim interest on the amount so deposited in the FDR of minors for their betterment.

[9]. With these observations, the impugned award dated 06.12.2012 is modified in the aforesaid terms.

21.07.2016

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**(RAJ MOHAN SINGH)
JUDGE**