

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

**FAO No.2212 of 2013 (O&M)
Decided on: 04.07.2016**

Unjeela and another

....Appellants

Versus

Bashim and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Ashok Kaushik, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for Mr. Sanjeev Goyal, Advocate
for respondent No.3.

Mr. Ashish Gupta, Advocate
for respondents No.4 to 9.

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

REKHA MITTAL, J.

CM No.10589-CII of 2013

Prayer in this application is for condoning delay of 115 days in filing the appeal.

Counsel for the non-applicants/respondents have not filed any reply to the said application.

Heard.

In view of averments made in the application supported by

an affidavit of Unjeela the applicant-appellant, I am satisfied that delay has been sufficiently explained, accordingly, the application is allowed and delay of 115 days in filing the appeal stands condoned.

FAO No.2212 of 2013

The claimants are in appeal seeking enhancement of compensation in regard to death of Mustakeem in a motor vehicular accident, awarded by the Motor Accident Claims Tribunal, Nuh (for brevity 'the Tribunal') vide award dated 24.07.2012.

The learned Tribunal assessed income of the deceased at Rs.4,500/- per month, allowed deduction to the extent of 1/3rd for personal expenses, adopted multiplier of 18 and computed loss of dependency at Rs.6,48,000/-. In addition, an amount of Rs.10,000/- has been awarded for funeral expenses making total compensation of Rs.6,58,000/- payable to Smt. Ujneela, widow of deceased to the extent of 50% and the remaining 50% to be shared by Smt. Rashidan wife of Fateh Mohd. (mother of the deceased) and Jafrina, minor daughter of the deceased in equal share.

Counsel for the appellants would contend that compensation awarded by the Tribunal requires enhancement both under pecuniary and conventional heads. To substantiate his contention, it is argued that the learned Tribunal has failed to allow 50% increase in income for future prospects as has been allowed by Hon'ble the Supreme Court in ***“Rajesh and others Vs. Rajbir Singh and others”*** reported in **2013(3) R.C.R. (Civil) 170**. Unjeela, widow of the deceased is entitled to an amount of Rs.1,00,000/- towards consortium. The mother and minor child of the deceased are entitled to compensation for

loss of love and affection of their son and father respectively. In support of his contention, reliance has been placed upon judgment of Hon'ble the Supreme Court "***Vimal Kanwar and others Vs. Kishore Dan and others***" 2013(2) R.C.R. (Civil) 945.

Counsel for the contesting respondent (Insurance Company) has supported the award passed by the Tribunal.

I have heard counsel for the parties and perused the records.

In view of the authoritative enunciation of law laid down in the judgments relied upon by counsel for the appellants, the claimants are entitled to benefit of increase in income for future prospects to the extent of 50% as the deceased was about 20 years of age. After allowing increase to the extent of 50%, the amount calculated towards loss of dependency comes to Rs. 6,48,000/- + Rs.3,24,000/- = Rs.9,72,000/-. Unjeela is held entitled to an amount of Rs.1,00,000/- towards consortium. Smt. Rashida, mother of the deceased shall be entitled to an amount of Rs.50,000/- towards loss of love and affection. Jafrina minor daughter of the deceased shall be entitled to an amount of Rs.1,00,000/- towards loss of love and affection of her father and Rs.10,000/- on account of funeral expenses already awarded by the Tribunal. In this manner, the total amount of compensation payable to the claimants is calculated at Rs.12,32,000/- and the enhanced amount of compensation is worked out to the tune of Rs.5,74,000/-.

Out of the enhanced compensation, the amount awarded towards loss of consortium and love and affection shall be payable to the claimants as per their entitlement discussed hereinbefore. The

remaining amount shall be payable to the claimants as per the shares determined by the learned Tribunal.

The enhanced amount of compensation shall carry interest at the rate allowed by the Tribunal from the date of filing of the petition till the date of payment. The share of minor claimant shall be deposited in a nationalized bank in a fixed deposit, payable on her attaining the age of majority.

04.07.2016
yakub

(REKHA MITTAL)
JUDGE