

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

**FAO No.2654 of 2013 (O&M)
Date of decision : 21.04.2016**

Smt. Sunita Devi and others

.....Appellants

Versus

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Surinder Gandhi, Advocate for the appellants.

Mr. Arun Gosain, Central Government Counsel
for respondents.

DARSHAN SINGH, J.

The appellants-claimants have preferred this appeal against the the award dated 22.11.2008, passed by learned Motor Accidents Claims Tribunal, Rohtak (hereinafter called the 'Tribunal'), vide which they have been awarded compensation to the tune of Rs.10,89,500/- along with interest at the rate of 6% per annum on account of the death of Balwan Singh in the motor vehicular accident, which took place on 12.06.2006.

2. The present appeal has been preferred by the claimants for

enhancement of amount of compensation.

3. Learned counsel for the appellants contended that the deceased was a Havildar in the Indian Army. There were bright prospects of his promotion in the career and emoluments. Learned Tribunal has not awarded any future prospects. Inadequate compensation has been awarded under the other conventional heads.

4. On the other hand, learned counsel for the respondents contended that the learned Tribunal has awarded the compensation under all the heads to the claimants. The same is just compensation and no further enhancement is justified.

5. I have duly considered the aforesaid contentions.

6. This fact is not disputed that deceased Balwan Singh was employed in Indian Army and even at the time of the accident, he was going to his work place *i.e.* I Corps Zone Workshop, Cantt. Area, Hisar. So, naturally there were bright prospects for the advancement of the deceased in the career as well as emoluments, but the learned Tribunal has not added anything towards future prospects to the income of the deceased. As per the statement of PW-1 Rajbir, the salary of the deceased was Rs.9056/- per month. To make it a round figure, we can take it as Rs.9000/- per month. As per the service record, the date of birth of the deceased was 01.03.1967. The present accident has taken place on 12.06.2006. Thus, on the date of his death, deceased Balwan Singh was 39 years, 03 months and 11 days of age. Thus, he was below 40 years of

age. So, 50% of the income of the deceased is required to be added towards the future prospects. In this way, the income of the deceased comes to Rs.13,500/- per month *i.e.* Rs.1,62,000/- per annum. The deceased was having three dependents *i.e.* his widow claimant Sunita Devi and two minor children. So, 1/3rd of his income is to be deducted towards his personal and living expenses. The reminder comes to Rs.1,08,000/-. Keeping in view the age of the deceased, the multiplier of 15 shall be applicable. So, the loss of dependency comes to Rs.16,20,000/-.

7. Learned counsel for the appellants has rightly contended that very less amount has been awarded to the claimants under the other conventional heads. Only Rs.2000/- have been awarded towards funeral expenses and Rs.5000/- have been awarded to appellant-claimant No.1 Sunita Devi towards loss of consortium. Appellant-claimant Sunita Devi shall be entitled to Rs.1,00,000/- towards loss of consortium. Appellants-claimants No.2 & 3, the minor children of the deceased, shall also be entitled to Rs.1,00,000/- towards loss of love, care and guidance. The claimants shall also be entitled to a sum of Rs.25,000/- towards funeral and transportation charges. In this way, the total amount of compensation comes to Rs.18,45,000/-.

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The appellants-claimants shall be entitled to compensation of Rs.18,45,000/- instead of Rs.10,89,500/- as

awarded by the learned Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation, except for the period of 1736 days *i.e.* the delay caused by the appellants in filing the present appeal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

21.04.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**