

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

**FAO No.142 of 2014
Decided on: 07.12.2016**

Manju Devi and others

....Appellants

Versus

Pinki Devi and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Shubhankar Baweja, Advocate
for the appellants.

Mr. Ravi Kherwa, Advocate
for Mr. Vikas Lochab, Advocate
for respondent No.1.

Mr. Subhash Goyal, Advocate
for respondent No.5.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Panipat (in short 'the Tribunal') in regard to death of Shyam Narain in a motor vehicular accident on the intervening night of 03/04.07.2011.

The Tribunal assessed income of the deceased at Rs.4,500/- per month, deducted 1/4th for personal expenses and adopted a multiplier of 14 to compute loss of dependency at Rs.5,67,000/-. In addition, an amount of Rs.20,000/- each for loss of love and affection and funeral expenses and Rs.10,000/- for transportation has been awarded making total compensation to Rs.6,17,000/- payable with interest @ 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that the deceased

was a Welder Fitter, therefore, his income is to be assessed on the basis of wage of a skilled worker. The Tribunal has not allowed benefit of increase in income for future prospects to the extent of 30% in the light of judgment of Hon'ble the Apex Court "***Rajesh and others Vs. Rajbir Singh and others***", 2013(3) R.C.R. (Civil) 170. Compensation awarded under conventional heads also needs enhancement.

Counsel for the respondents have supported the award.

I have heard counsel for the parties and perused the paperbook particularly the award passed by the Tribunal.

The learned Tribunal in para 16 of the award has scanned plea of the claimants with regard to the deceased being Welder Fitter and his salary at Rs.8,100/- per month, however, it has been noticed that Ashish PW1 and Manju PW2 stated in cross-examination that the deceased was doing labour work in S.S. Rice Mill under a private contractor. Counsel for the appellants has failed to point out any materials on record to substantiate plea of the claimants that the deceased was a Welder Fitter, thus, his income is to be assessed on the basis of wage of a skilled worker. However, keeping in view the minimum wage fixed by the State of Haryana available to an unskilled worker in July, 2011, income of the deceased is assessed at Rs.4,650/- per month. As the deceased was in the age bracket of 41 to 45 years, benefit of future prospects to the extent of 30% is extended. In view of the above, loss of dependency comes to **Rs.7,61,670/-** (Rs.4,650 x 12 x 14 = Rs.7,81,200/- + Rs.2,34,360/- (30% for future prospects) = Rs.10,15,560/- – Rs.2,53,890/- (1/4th deduction towards personal expenses)).

Under conventional heads, an amount of **Rs.1,00,000/-** for loss of consortium to the widow and **Rs.2,25,000/-** in equal share for loss of love and affection to the minor children, **Rs.25,000/- each** for funeral expenses and loss of estate are awarded and **Rs.10,000/-** awarded by the Tribunal for transportation is affirmed. The total compensation comes to Rs.11,46,670/- and the enhanced compensation is **Rs.5,29,670/-** (Rs.11,46,670/- – Rs.6,17,000/-) payable with interest @ 7.5% per annum from the date of petition till realization.

The enhanced compensation shall be payable to minor children of the deceased in the ratio of 25 : 30 : 45 except the amount of consortium payable to the widow. The amount payable to minor children shall be deposited in the shape of FDR in a nationalized bank for a period of three years or till they attain the age of majority whichever is later. The interest accruing on the FDRs shall be payable to mother of the children for meeting expenses on their education and living. The claimants shall not be entitled to create any charge against the FDRs.

The appeal is partly allowed in the aforesaid terms.

07.12.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No