

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

**FAO No.125 of 2015(O&M)
Date of decision : 08.11.2016**

Davinder Kaur and others

..... Appellants

versus

Rahul and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Vivek Suri, Advocate for the appellants.

Mr.M.B.Jain, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Surinder Singh alias Baboo in a motor vehicular accident that took place on 13.12.2012.

The Motor Accidents Claims Tribunal, Patiala (in short “the Tribunal) assessed income of the deceased at Rs. 5000/-per month, deducted Rs.1500/- for personal expenses, adopted multiplier of 17 to compute loss of dependency at Rs. 7,14,000/-. In addition, an amount of Rs. 1 lac for loss of consortium and Rs. 25,000/- for funeral expenses has been awarded making total compensation to Rs. 8,39,000/- payable with interest at the rate of 7% per annum from the date of petition till realisation.

Counsel for the appellants has submitted that the deceased was 22 years old, therefore, admissible multiplier would be 18. The claimants are entitled to benefit of future prospects to the extent of 50%. It is further submitted that compensation awarded under conventional heads needs

enhancement.

Counsel for the insurance company, on the contrary, has supported the award.

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

The Tribunal has adopted multiplier of 17 on the basis of age of the deceased recorded in the post mortem report. On a pointed query raised by the Court, counsel for the appellants has fairly informed that there is no documentary evidence on record to prove date of birth of the deceased to substantiate their claim that deceased was less than 25 years of age at the time of occurrence. Under these circumstances, I do not find any reason to interfere in assessment of age of the deceased and the multiplier adopted by the Tribunal. However, the claimants are entitled to future prospects to the extent of 50% in the light of judgment of Hon'ble the Supreme Court of India ***Rajesh and others v. Rajbir Singh and others (2013)3 RCR(Civil) 170.*** Loss of dependency in the circumstances is calculated at Rs. 7500/- x 12 x 17- 1/3rd deduction thereof = Rs. 10,20,000/-.

The deceased left behind a minor child aged about 1¼ years and his mother. The minor child shall be entitled to an amount of Rs. 1 lac and mother Rs. 50,000/- for loss of love and affection. The claimants are awarded an amount of Rs. 25,000/- for loss of estate. Compensation awarded by the Tribunal for loss of consortium and funeral expenses to the tune of Rs. 1.25 lacs is affirmed. In view of the above, total compensation is calculated at Rs.11,95,000/- and the enhanced compensation at Rs. 4,81,000/-.

The enhanced compensation shall be payable with interest at the

rate of 7.5% p.a. from the date of the petition till realisation and the same shall be shared by the widow and minor child of the deceased in the ratio of 25:75. The amount falling to the share of the minor shall be deposited in fixed deposit receipt in a nationalised bank and shall be payable on his attaining the age of majority. The interest accruing on fixed deposits receipt shall be payable to the mother (widow of the deceased) for meeting expenses on the education of minor child. Additional amount payable to the widow shall be deposited in fixed deposit receipt for a period of 2 years.

The appeal is partly allowed in the aforesaid terms.

(REKHA MITTAL)
JUDGE

November 08, 2016
sunita

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No