

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

FAO No.2273 of 2014

Date of decision : 09.02.2016

Sudesh Bala and others

.....Appellants

Versus

Jagtar Singh 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. Vivek Suri, Advocate for appellants.

Mr. S.S. Sarwara, Advocate for respondent No.1.

Mr. Lalit Garg, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 18.12.2013, passed by learned Motor Accidents Claims Tribunal, Patiala (hereinafter called the 'Tribunal') vide which the claimants have been granted compensation to the tune of Rs.5,80,400/- along with interest @ 6% per annum from the date of filing the claim petition till realisation on account of death of Chand Singh in a motor vehicular accident who took place on 20.12.2012.

2. The present claim petition has only been filed for enhancement of amount of compensation.

3. I have heard Mr. Vivek Suri, Advocate, learned counsel for the appellants, Mr. S.S. Sarwara, Advocate, learned counsel for respondent No.1, Mr. Lalit Garg, Advocate, learned counsel for respondent No.3 and gone through the paper-book carefully.

4. Initiating the arguments, learned counsel for the appellant contended that the learned Tribunal has wrongly deducted 1/3rd towards personal and living expenses of the deceased. The deceased was having five dependents. So, the deduction should have been 1/4th. He further contended that no amount has been awarded on account of loss of love and affection to the mother and daughter.

5. On the other hand, learned counsel for the respondents contended that the learned Tribunal has awarded the compensation under all the heads which is just and appropriate.

6. I have duly considered the aforesaid contentions.

7. I found considerable substance in the contentions raised by learned counsel for the appellants. The learned Tribunal has determined the income of the deceased Rs.4500/- per month i.e. Rs.54,000/- per annum. In view of the law laid down by the Hon'ble Apex Court in case ***Rajesh and others Vs. Rajbir Singh and others 2012 (2) Apex Court Judgments 245***, there should be addition of 15% towards future prospects where the victim was more than 50 years of age but was less than 60 years. So, 15% of the income of the deceased is to be added towards future prospects. The total income of deceased Chand Singh

comes to Rs.62,100/- per annum. The learned Tribunal has wrongly deducted 1/3rd as personal and living expenses of the deceased but in view of the law laid down by the Hon'ble Apex Court in case **Sarla Verma Vs. Delhi Transport Corporation, 2009(3) RCR (Civil) 77**, as the deceased had five dependents, so the deduction should have been 1/4th. Thus, after deducting 1/4th towards the living and personal expenses of the deceased, the remainder comes to Rs.46,575/- (62,100 – 15,525). The age of the deceased was mentioned as 53 years in the postmortem report Ex.P1. Claimant Sudesh Bala has also admitted in the cross-examination that her husband was 53 years of age. So, the multiplier of 11 shall be applicable. The multiplicand comes to Rs.5,12,325/- (46,575 x 11). Claimant No.4 Rajdeep Kaur, the daughter of the deceased was of marriageable age as her age has been mentioned as 22 years in the claim petition. So, she will be entitled to Rs.1,00,000/- towards the loss of love and care. Claimant No.5 is the old mother of the deceased. She will also be entitled to sum of Rs.50,000/- towards loss of love and affection of her son. The total amount of compensation permissible to the appellants-claimants will be as under:-

Sr. No.	Heads	Amount of compensation
1.	Loss of dependency	Rs.5,12,325/-
2.	Loss of consortium to the widow	Rs.1,00,000/-
3.	Funeral and transportation expenses	Rs.25,000/-
4.	Loss of love and guidance to the unmarried daughter	Rs.1,00,000/-
5.	Loss of love and affection to the mother	Rs.50,000/-
Total		Rs.7,87,325/-

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced from Rs.5,80,400/- as awarded by the learned Tribunal to Rs.7,87,325/-. The claimants shall also be entitled to interest at the rate determined by the learned Tribunal on the enhanced amount of compensation from the date of filing the claim petition till realisation. The liability to pay the enhanced amount of compensation and mode of payment shall be as per the award passed by learned Tribunal.

09.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**