

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

FAO-3864-2013 (O&M)

Date of decision: 4.3.2016

Pooja Rani and others

...Appellants

Versus

M/s Kundan Oil & General Mills and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Rajbir Singh, Advocate for the appellants

Mr.Maninder Arora, Advocate for respondent No.2.

SNEH PRASHAR, J.

By filing the present appeal, the claimants- appellants have sought enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Mansa (for short 'the Tribunal') vide award dated 14.9.2012 on account of death of Anil Kumar, husband of appellant NO.1 and father of appellants No.2 and 3, in a motor vehicular accident.

Alongwith this appeal, the appellants have filed CM-15730-CII-2013 under Order XLI Rule 27 of read with Section 151 of the code of Civil Procedure for producing Voter Card of deceased Anil Kumar (Annexure A-1) by way of additional evidence. Despite sufficient opportunities availed by the Insurance Company (respondent No.2) neither a reply could be filed by it nor anything could be produced to rebut the document. Thus, there is no reason to disallow the application

filed by the appellant or to disbelieve the Voter Card prepared by the Election Commission of India. Accordingly, the application is allowed and the document is taken in evidence.

The motor accident in which Anil Kumar lost his life took place on 12.10.2011. The claimants- appellants being the natural legal heirs of deceased Anil Kumar filed a petition claiming compensation under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to 'the Act of 1988'). Assessing the income of the deceased as Rs.39,000/- per annum, deducting $\frac{1}{3}$ rd of the income towards personal and living expenses of the deceased and applying the multiplier of 14 according to the age of the deceased i.e. 42 years, an amount of Rs.3,64,000/- was awarded as compensation by learned Tribunal. In addition to it, a sum of Rs.10,000/- for loss of estate and funeral expenses and Rs.10,000/- for loss of consortium was allowed.

The submissions made by learned counsel for the parties have been heard and record perused.

The only argument raised by learned counsel for the appellants is that in the voter card (Annexure A-1) issued by the Election Commission of India, the date of birth of the deceased was mentioned as 20.8.1974, which proves that on the date of accident i.e. 12.10.2011, the age of the deceased was 37 years and the multiplier of 16 was applicable.

There is no denial that as per the Voter Card (Annexure A-1) the deceased was 37 years of age at the time of accident. As per the Second Schedule, when the victim is in the age group of 35-40 years, the

multiplier of 16 has to be applied. Accordingly, the multiplier applied in the present case is enhanced from 14 to 16.

In the above premise, the total compensation under the head of loss of dependency comes to Rs.4,16,000/- (39,000 annual income) -1/3rd (deduction on account of personal and living expenses of the deceased) x 16. The enhanced amount of Rs. 52,000/- shall be paid to the claimants- appellants within two months from the date of the receipt of the certified copy of this judgment, failing which, it shall carry interest at the rate of 7.5% per annum from the date of the filing of the appeal till its realisation.

The appeal is partly allowed and the impugned award is modified to the above extent.

4.3.2016
gsv

(SNEH PRASHAR)
JUDGE