

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

FAO-3899-2013 (O&M)
Date of decision: 28.04.2016

Smt. Anita and others

...Appellants

Versus

Badrey Alam and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Tapan K. Yadav, Advocate for the appellants.

Mr. Suman Jain, Advocate with
Mr. Manmohan Singh, Advocate for respondent No.3.

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JITENDRA CHAUHAN, J.

CM No.15864-CII of 2013

Heard.

For the reasons contained in the application, which is duly supported by an affidavit, same is allowed and delay of 40 days in filing the present appeal is condoned, subject to all just exceptions.

Main Case

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 05.03.2013, passed by learned Motor Accidents Claims Tribunal, Rewari, (for short, 'the Tribunal').

The learned counsel for the appellants contends that deceased, Tej Singh was 31 years at the time of accident. No amount

has been awarded towards future prospects and loss of love & affection. Further states that the amount awarded under the conventional heads are on the lower side and deserves to be enhanced. No other argument is raised.

On the other hand, learned counsel for respondent No.3 has vehemently opposed the present appeal and states that a just and reasonable compensation has already been awarded to the appellants.

I have heard the learned counsel for the parties and carefully perused the entire record.

It is not in dispute that the deceased was 31 years of age at the time of his death. As per Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2006, full last drawn salary will be given for 15 years to the dependants of the deceased and as such by applying the ratio of ***Oriental Insurance Company Ltd. Vs. Saroj Devi and others*** (FAO No.589 of 2010, decided on 21.12.2011), therefore, this Court assesses the notional age of the deceased as 46 years. Keeping in view the law laid down in ***Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54***, an addition of 30% is ordered to be made in the actual income of the deceased towards future prospects. Further, as the deceased would have worked in service for only 12 years more, as age of retirement is 58 years, therefore, only multiplier of 12 is taken.

In this way, the amount of compensation under the head of 'loss of dependency' comes to ₹18,919/- + 30% X 12 X 12 X 3/4 =

₹26,56,224/-, as against an amount of ₹13,62,160/-, assessed by the learned Tribunal under this head.

Furthermore, nothing has been awarded towards loss of love and affection, therefore, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others***, (2013-3) PLR 776, amount of ₹1,00,000/- awarded towards loss of love and affection shall be payable to the children of the deceased, in equal shares.

As per the law laid down in Rajesh's case (supra) , another amount of ₹90,000/- towards loss of consortium awarded to the wife of the deceased, only.

In view of the above, the claimants are held entitled to the enhanced compensation of ₹14,84,064/- [₹12,94,064/- (enhancement towards 'loss of dependency') + ₹1,00,000/- (towards loss of love and affection payable to the children of the deceased, in equal shares) + ₹90,000/- (enhancement towards loss of consortium payable to the wife of the deceased only)] as indicated above, in the manner prescribed in the impugned award, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

28.04.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**