

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

**FAO No. 3995 of 2013
Date of decision: 08.09.2016**

Rakuba Khatoon & Another

...Appellants

Vs.

Kulwinder Singh & Others

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Ankit Kaushal, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No. 3-Insurance Company.

REKHA MITTAL, J. (Oral)

Rakuba Khatoon and Mohammad Niyaz, unfortunate parents of deceased Mohammad Jeshan, aged about 18 years, are in appeal seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Ludhiana (*for short 'the Tribunal'*). The learned Tribunal awarded a consolidated sum of ₹ 3,00,000/- with interest @ 7.5 per annum from the date of filing of petition till realization.

2. Counsel for the claimant has submitted that deceased was Matriculate and a student of 10+1 medical stream. He has also been helping his father in repair of trolley truck etc. and also working part time as deposed by Mohammad Niyaz, therefore his income should not be less than ₹10,000/- per month. He has further submitted that claimants are entitled to benefit of future income for computing loss of dependency besides compensation under conventional heads in the light of judgment in **Rajesh and others Vs. Rajbir Singh and others, (2013) 3 RCR (Civil) 170.**

3. Counsel for the Insurance Company has supported the award passed by the Tribunal.

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

5. The learned Tribunal has committed a serious error rather illegality by awarding a consolidated sum of ₹3,00,000/- without correctly appreciating that it has an onerous obligation to award just, reasonable and equitable compensation to make good the loss as the money can do for the wrong done due to untimely death of Mohammad Jeshan. It has been proved on record that the deceased was Matriculate from the Punjab School Education Board. There is no documentary evidence on record in regard to his being a student of 10+1 medical stream. However, taking into consideration minimum wage available to a highly skilled worker in the State of Punjab in March, 2012 coupled with the factum that the deceased was Matriculate, I assess his income at ₹ 5000/- per month. The claimants shall also be entitled to benefit of future prospects to the extent of 50%. Half of the amount shall be deducted towards personal and living expenses of the deceased and multiplier of 18 is admissible in the light of judgment of Hon'ble the Supreme Court ***Sarla Verma & Ors vs Delhi Transport Corp. & Anr.*** In this manner, loss of dependency comes to ₹5000 x 12 x 18 = 10,80,000 + 5,40,000 = 16,20,000 - 8,10,000 = 8,10,000.

6. The mother shall be entitled to an amount of ₹50,000/- for loss of love and affection and another amount of ₹ 25,000/- each for funeral expenses and loss of estate is awarded. Total compensation comes to ₹9,10,000/- and enhanced compensation is ₹ 6,10,000/- payable with interest @ 7.5% per annum from the date of filing of petition till realization. The enhanced compensation will be payable exclusively to the

mother.

7. The appeal is partly allowed in the aforesaid terms.

September 08, 2016

Ansari

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No