

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

FAO No.2195 of 2015

Date of decision : 16.12.2016

Mohinder Kaur and others

.....Appellants

Versus

Daljit Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ishan Cooner, Advocate for
Mr. J. S. Cooner, Advocate for appellants.

Mr. R. N. Singal, Advocate for respondent No.3-
Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 18.11.2014, passed by the learned Motor Accidents Claims Tribunal, SAS Nagar (Mohali) (hereinafter called the “Tribunal”), in a petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), whereby the appellants-claimants have been awarded compensation to the tune of ₹2,52,420/- on account of death of Chhajja Singh in the motor vehicular accident which took place on 28.02.2013.

2. The present appeal has been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and gone through the paper-book carefully.

4. Initiating the arguments, learned counsel for the appellants-claimants contended that learned Tribunal has awarded less amount of compensation towards loss of consortium to the widow. Appellant-claimant No.3 Rajinder Singh was the mentally retarded son of the deceased. He has also not been awarded any compensation towards loss of love, care and guidance of his father. Thus, he contended that less amount of compensation has been awarded by the learned Tribunal.

5. On the other hand, learned counsel for respondent-Insurance Company contended that appellant-claimant No.3 Rajinder Singh was the major son of the deceased, so he is not entitled to any amount towards loss of love, care and guidance. He further contended that there is no medical evidence to show that he was mentally retarded. Thus, he contended that the amount of compensation awarded by the learned Tribunal is just and appropriate.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has awarded ₹50,000/- as loss of consortium to appellant-claimant No.1 the widow of deceased Chhajja Singh. It is a fact of common knowledge that the company of the spouse is more needed in the old age as by that time the children are grown up and they remain busy in their profession and their own children. It is only the spouse who can give company and take care of each other in the evening of the life. So, appellant-claimant No.1 shall be entitled to ₹1,00,000/- towards loss of consortium.

8. Appellant-claimant No.3 Rajinder Singh has been shown to

be mentally retarded even in the claim petition. There is no material on record to show that this factum has been disputed by the respondent at any stage of the trial. So, appellant No.3 Rajinder Singh is the mentally retarded son of the deceased. The deceased being the father of a mentally retarded child must be taking care of him, so appellant-claimant No.3 Rajinder Singh shall be entitled to a sum of ₹50,000/- on account of loss of love, care and guidance of his father. In this way, the total amount of compensation payable to the claimants comes to ₹3,52,420/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellants-claimants is enhanced to ₹3,52,420/- from ₹2,52,420/- as awarded by the Tribunal. The appellants-claimants shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate as determined by the learned Tribunal. The liability to pay the enhanced amount of compensation and apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the main award.

16.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No