

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

**FAO-4528-2013 (O&M)
Date of decision: 29.01.2016**

Karnail Kaur and others

...Appellants

Versus

Khushwinder Kumar and anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. L. S. Sidhu, Advocate for the appellants.

Ms. Amanpreet Kaur, Advocate for
Mr. HNS Gill, Advocate for respondent No.1.

Mr. P. K. Kataria, Advocate
for respondent No.2.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 09.12.2009, passed by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal').

The learned counsel for the appellants contends that deceased Rachhpal @ Harpal Singh was the sole bread winner of the family. The amount awarded under the conventional heads are on the lower side and deserves to be enhanced.

The learned counsel for the respondent-Insurance

Company states that just and reasonable compensation has been already allowed and prays for dismissal of the appeal.

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

The fact of accident is not disputed. From the record, it stands established that the deceased had died as a result of the accident.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased was 46 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, an addition of 30% is ordered in the actual income of the deceased towards future prospects.

Further, keeping in view the age of the deceased, the multiplier of 13 deserves to be applied instead of 10 applied by the learned Tribunal, in view of the judgments delivered by the Hon'ble Supreme Court in ***Sarla Verma vs. DTC 2009 (3) RCR (Civil) 77 and Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315***.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.3200/- + 30% X 12 X 13 X 2/3 = Rs.4,32,640/-, as against an amount of Rs.2,55,900/-, assessed by

the learned Tribunal under this head.

Further, it is noticed that nothing has been awarded under the head 'loss of consortium' and Rs.10,000/- has been awarded towards the head 'cremation and last rites'. Accordingly, following the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, an amount of Rs.1,00,000/- is awarded towards 'loss of consortium' payable to the wife of the deceased only and Rs.10,000/- awarded under 'cremation and last rites' is enhanced to Rs.15,000/- under this head.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.2,81,740/- [Rs.1,76,740/- (enhancement towards loss of dependence) + Rs.1,00,000/- (towards 'loss of consortium', payable to the wife of the deceased only) + Rs.5,000/- (enhancement towards 'cremation and last rites')] 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.

29.01.2016

**(JITENDRA CHAUHAN)
JUDGE**