

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

FAO-4034-2014 (O&M)
Date of decision: 10.05.2016

Smt. Gajna and others

...Appellants

Versus

Ms. Raj Katariya and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ram Pal Verma, Advocate
for the appellants.

Mr. V. K. Garg, Advocate
for respondent No.3.

-. -

JITENDRA CHAUHAN, J.

CM Nos.12072-CII and 12073-CII of 2014

After hearing the learned counsel for the parties and for the reasons contained in the applications, which are duly supported by affidavits, same are allowed and delay of 101 days in re-filing and 87 days in filing the present appeal are condoned, subject to all just exceptions.

CMs are allowed as prayed for.

Main Case

This is claimants' appeal seeking enhancement of the

amount of compensation awarded vide impugned award dated 22.03.2013, passed by learned Motor Accidents Claims Tribunal, Sonapat (for short, 'the Tribunal').

The learned counsel for the appellants contends that the deceased, Anand was 35 year old at the time of accident. The learned Tribunal has not awarded anything towards future prospects. It is further contended that the compensation of ₹8,49,440/- awarded by the learned Tribunal under the conventional heads is also on the lower side and deserves to be enhanced.

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

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

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, Anand was 35 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh, 2013(3) R.C.R. (Civil), 170 (SC)***, an addition of 50% is ordered in the actual income of the deceased towards future prospects. However, as the matter pertaining to the future prospects is pending adjudication before Hon'ble the Supreme Court in SLP (Civil) No.16735 of 2014, therefore, the amount of future

prospects be released on furnishing of requisite indemnity bonds by the appellants.

In this way, the amount of compensation under the head of 'loss of dependency' comes to ₹5400/- + 50% X 12 X 16 X 4/5 = ₹12,44,160/-, as against an amount of ₹8,29,440/-, assessed by the learned Tribunal under this head.

Furthermore, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others***, (2013-3) PLR 776, amount of ₹1,00,000/- 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 is awarded to the wife of the deceased, only and another ₹10,000/- towards cremation and last rites.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of ₹6,14,720/- [₹4,14,720/- (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) + ₹10,000/- (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.

10.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**