

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

**FAO No.2496 of 2015
Decided on: 26.10.2016**

Suman and others

....Appellants

Versus

Satar Deswali and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. J.S. Chatrath, Advocate
for the appellants.

Mr. Ankur Gupta, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Hisar (for brevity 'the Tribunal') in regard to death of Virender @ Lilu in a motor vehicular accident that took place on 21.03.2013.

The learned Tribunal assessed income of the deceased at Rs.8,540/-, deducted 1/4th for personal expenses and adopted a multiplier of 16 to compute loss of dependency to the tune of Rs.12,29,760/-. In addition, Rs.1,00,000/- each for loss of love and affection, Rs.11,000/- for funeral and transportation expenses were awarded making total compensation to Rs.16,40,760/- payable with interest @ 7% per annum from the date of petition till realization.

Counsel for the claimants has submitted that the deceased was working as a truck driver and he met with accident while driving truck No.HR-39-B-3929 owned by Randhir Singh – PW1. It is further submitted that Randhir Singh deposed that the deceased was given

salary of Rs.12,000/- per month besides Rs.300/- per day as daily wage.

It is submitted that in view of testimony of Randhir Singh, income of the deceased is liable to be enhanced. Another submission made by counsel is that the Tribunal has not allowed benefit of future prospects to the extent of 50% as the deceased was 34 years old at the time of occurrence. In addition, the claimants are entitled to Rs.25,000/- for expenses on funeral.

Counsel for the insurance company, on the contrary, has submitted that testimony of Randhir Singh with regard to employment and salary of the deceased does not find corroboration from any documentary evidence. It is further argued that the Tribunal has assessed income of the deceased on the basis of D.C. rates in place of minimum wage fixed by the Department of Labour, State of Haryana. It is further argued that the Tribunal has wrongly allowed Rs.1,00,000/- each to the claimants for loss of love and affection and the same is liable to be reduced.

I have heard counsel for the parties, perused the paperbook and the records.

It is an undisputed position of the case that Virender @ Lilu sustained injuries in the occurrence while he was driving truck No.HR-39-B-3929. There is no challenge to testimony of Randhir Singh that he is owner of the said truck. The driving licence of Virender @ Lilu was also produced on record. In this view of the matter, it is established that the deceased was working as a driver on a heavy transport vehicle. In the affidavit Ex.PW1/A tendered into evidence by Randhir Singh, there is no reference as to since when the deceased was

working on the truck owned by him. It is not clear on record as to what was the financial status of Sh. Randhir Singh. Admittedly, testimony of Randhir Singh with regard to salary of the deceased does not find corroboration from any documentary evidence. Under these circumstances, salary of the deceased assessed by the Tribunal at Rs.8,540/- does not warrant intervention. However, as the deceased was a truck driver and was less than 40 years of age, claimants are entitled to benefit of future prospects to the extent of 50% in the light of judgment of Hon'ble the Supreme Court of India "***Rajesh and others Vs. Rajbir Singh and others***", 2013(3) R.C.R. (Civil) 170. Hence, loss of dependency comes to **Rs.18,44,640/-** (Rs.8,540/- x 12 x 16 = Rs.16,39,680/- + Rs.8,19,840/- (50% for future prospects) = Rs.24,59,520/- – Rs.6,14,880/- (1/4th deduction towards personal expenses).

Under conventional heads, the Tribunal has awarded an amount of Rs.1,00,000/- to each of the claimants for loss of love and affection. Compensation of **Rs.1,00,000/-** to the widow towards loss of consortium including loss of love and affection is affirmed. However, in view of social and financial status of the family when examined in the light of obligation of the Tribunal to award just, reasonable and equitable compensation that is not intended to be a bonanza, largesse or a source of profit, children of the deceased shall be entitled to an amount of **Rs.1,50,000/-** in equal share for loss of love and affection and mother of the deceased to an amount of **Rs.50,000/-** under this head. The claimants shall be entitled to an amount of **Rs.25,000/- each** for funeral and transportation expenses and loss of estate. In this way,

total compensation comes to **Rs.21,94,640**. The enhanced compensation of **Rs.5,53,880/-** (Rs.21,94,640/- – Rs.16,40,760/-), is payable with interest @ 7.5% per annum from the date of petition till realization.

The enhanced compensation shall be payable to children of the deceased in equal share, to be deposited in FDRs in a nationalized bank, payable to them on attaining the age of majority. The claimants shall not be entitled to raise any loan against the fixed deposit receipts. The interest accrued on the FDRs shall be payable to mother of the children for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

26.10.2016
yakub

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No