

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

**FAO No.4136 of 2014 (O&M)**

**Date of decision : 22.11.2016**

**Smt. Sarbati Devi and others**

.....Appellants

*Versus*

**Mahavir Singh and others**

...Respondents

**CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Arvind Bansal, Advocate for appellants.

Mr. Sanjeev Goyal, Advocate for respondent No.3.

\*\*\*\*

**DARSHAN SINGH, J.**

The present appeal has been preferred by the appellants-claimants against the award dated 12.11.2013, passed by learned Motor Accidents Claims Tribunal, Kaithal (hereinafter called the “Tribunal”), vide which they have been awarded compensation to the tune of Rs.4,02,700/- on account of the death of Ram Saroop in the motor vehicular accident which took place on 14.04.2012.

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

3. I have heard learned counsel for the parties and gone through the record of the case meticulously.

4. Learned counsel for the appellants contended that the deceased was working as a labourer and was earning Rs.280/- per day. He

further contended that the learned Tribunal has taken the income of the deceased only to be Rs.3000/- per month, which is even lesser than the minimum wages of the unskilled labourer fixed by the Labour Department. The minimum wages of the unskilled labourer at that time were Rs.4847/- per month. He further contended that less amount of compensation has been awarded towards other conventional heads. Thus, he contended that just amount of compensation has not been awarded.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased was an unskilled worker. So, his income has been rightly taken to be Rs.3000/- per month by the learned Tribunal. He further contended that appropriate amount of compensation has been assessed under all other relevant heads. So, there is no scope of any interference in the award passed by the learned Tribunal.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has considered the deceased to be unskilled labourer and has determined his income to be Rs.3000/- per month but this fact is not disputed that at the relevant time even the minimum wages of the unskilled labourer were fixed to be Rs.4847/- by the Labour Department, Haryana. So, the learned Tribunal has taken the income of the deceased to be on the lower side. The income of the deceased shall be taken to be Rs.4800/- per month *i.e.* Rs.57,600/- per annum.

8. The deceased was 54/55 years of age at the time of his accidental death. He was hale and hearty. The learned Tribunal rightly

added 15% to the income of the deceased towards future prospects. After adding 15% of the income of the deceased in his income towards future prospects, the total income of the deceased comes to Rs.66,240/-. Keeping in view the number of dependents, 1/3<sup>rd</sup> of the income of the deceased is to be deducted towards his personal and living expenses. The remainder comes to Rs.44,160/-. In view of the age of the deceased, the multiplier of 11 shall be applicable. Thus, the loss of dependency comes to Rs.4,85,760/-.

9. Learned Tribunal has awarded only Rs.50,000/- towards loss of consortium to appellant-claimant No.1. Appellant-claimant No.1 Smt.Sarbati shall be entitled to a sum of Rs.1,00,000/- on account of loss of consortium. Learned Tribunal has not awarded any amount to appellants No.2 to 4 the children of the deceased towards loss of love, affection and guidance of their father. They shall be entitled to a sum of Rs.1,00,000/- under this head. Learned Tribunal has rightly awarded a sum of Rs.25,000/- on account of funeral and last rites expenses. Thus, the total amount of compensation payable to the appellants-claimants comes to Rs.7,10,760/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to Rs.7,10,760/- from Rs.4,02,700/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced amount of compensation at the rate as awarded by the learned Tribunal from the date of filing the claim petition till realisation. The liability to pay the enhanced amount and the apportionment amongst

the claimants shall remain same as determined by the learned Tribunal in the main award.

22.11.2016

*sunil yadav*

( DARSHAN SINGH )  
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No