

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

FAO No.4270 of 2014 (O&M)

Date of decision : 14.12.2016

Ratanwati and another

.....Appellants

Versus

Shri Ram General Insurance Company Ltd. and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. S. K. Tripathi, Advocate for appellants.

Mr. Punit Jain, Advocate for
respondent No.1-Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 10.03.2014 passed by the learned Motor Accidents Claims Tribunal, Gurgaon (hereinafter called the “Tribunal”) in a claim 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 ₹ 9,16,000/- on account of death of their son Vinay in the motor vehicular accident which took place on 15.12.2012.

2. The present claim petition has been filed by the appellants-claimants for enhancement of the amount of compensation.

3. Learned counsel for the appellants-claimants contended that the deceased was doing his B. Tech. He was earning ₹15,000/- per month

from tuitions but the learned Tribunal has only taken the income of the deceased to be ₹5500/- per month which is on the lower side keeping in view the fact that the deceased was having the technical education. He further contended that no amount has been awarded to the appellants-claimants towards loss of love and affection of their son. Thus, he contended that less amount of compensation has been awarded.

4. On the other hand, learned counsel for respondent-Insurance Company contended that the deceased was a student. There was no evidence to establish that he was having any income from tuitions, so the income of the deceased has been rightly taken to be ₹5500/- per month by the learned Tribunal. He further contended that the learned Tribunal has awarded just compensation under all the heads. Thus, there is no scope for any further enhancement.

5. I have duly considered the aforesaid contentions.

6. As per the case of the claimants, deceased was a student of B. Tech. The claimants have not brought on record any documentary evidence to establish the academic qualification of the deceased. It is also the case of the claimants that deceased was taking some tuitions and was earning ₹15,000/- per month, but no documentary evidence has been produced except the oral statement of PW-3 Parkash and PW-4 Narender to establish the income of the deceased from the tuitions. In these circumstances, the learned Tribunal has rightly determined the income of the deceased to be ₹5500/- per month. The learned Tribunal has further added 50% future prospects to the income of the deceased. The deceased

was a bachelor, so the learned Tribunal has rightly deducted 50% of the income of the deceased towards his living and personal expenses. The multiplier of 17 has rightly been applied as per the age of the deceased. The claimants have also been awarded ₹25,000/- towards funeral and last rites expenses. However, the learned Tribunal has not awarded any amount to the mother of the deceased towards loss of love and affection of her son. So, the appellant-claimant Ratanwati the mother of the deceased shall be entitled to ₹1,00,000/- on account of loss of love and affection of her son.

7. 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 ₹10,16,000/- from ₹9,16,000/- 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 the same as determined by the learned Tribunal in the main award.

14.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No