

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

FAO No.1867 of 2016

Date of decision : 17.11.2016

Sheela and others

.....Appellants

Versus

Waris and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ram Bilas Gupta, Advocate for appellants.

Mr. Sachin Ohri, Advocate for
respondent No.3-Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-claimant against the award dated 01.10.2015, passed by learned Motor Accidents Claims Tribunal, Palwal (hereinafter called the “Tribunal”), vide which they have been awarded compensation to the tune of Rs.11,01,600/- on account of the death of Manohari alias Manohar Lal in the motor vehicular accident which took place on 10.11.2014.

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 paper-book meticulously.

4. Learned counsel for the appellants-claimants contended that

the learned Tribunal has taken the income of the deceased on the lower side while calculating the loss of dependency. No amount has been awarded to the minor children of the deceased on account of loss of love, care and guidance of their father. Very less amount of compensation has been awarded towards other conventional heads like loss of consortium, funeral expenses etc. Thus, he contended that the learned Tribunal has not awarded the adequate and just amount of compensation.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased is not proved to be a regular worker. Thus, the income taken into consideration by the learned Tribunal is justified. He contended that the compensation awarded by the learned Tribunal is just and appropriate keeping in view the antecedents, age and income of the deceased.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal while considering the deceased to be a contract employee of M/s Hindustan Wires Limited, has rightly taken the income of the deceased to be Rs.8000/- per month *i.e.* Rs.96,000/- per annum, which does not require any interference by this Court. Learned Tribunal has also rightly added 30% of the income of the deceased towards future prospects. However, I found considerable substance in the arguments raised by learned counsel for the appellant that the learned Tribunal has not awarded just amount of compensation towards the conventional heads.

8. Learned Tribunal has not awarded any amount of compensation to the minor appellants-claimants No.2 & 3 towards loss of

love and affection of their father. They shall be entitled to a sum of Rs.1,00,000/- on account of loss of love, care and guidance of their father. Learned Tribunal has awarded very meagre amount of Rs.10,000/- to appellant-claimant No.1 on account of loss of consortium. Appellant-claimant No.1 Smt. Sheela shall be entitled to a sum of Rs.1,00,000/- on account of loss of consortium. Learned Tribunal has only awarded a sum of Rs.10,000/- on account of expenditure incurred on transportation and last rites of the deceased, which is enhanced to Rs.25,000/-. In this way, the total amount of compensation payable to the claimants comes to Rs.13,06,600/-.

9. 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.13,06,600/- from Rs.11,01,600/- 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 as determined by the learned Tribunal in the main award.

17.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No