

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

FAO-2893-2015 (O&M)
Date of decision: 16.03.2016

Charanjit Kaur and others

...Appellants

Versus

Vijay Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

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

None for respondent No.2, despite service.

Mr. R. K. Bashamboo, Advocate for respondent No.3.

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JITENDRA CHAUHAN, J.

CM No.8822-CII of 2015

Despite availing sufficient opportunity, no reply has been filed to the delay application.

Heard.

For the reasons contained in the application, same is allowed and delay of 41 days in filing the present appeal is condoned.

Main Case

This is claimants' appeal for seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Panchkula, ('the Tribunal', for brevity)

vide award dated 10.11.2014.

Keeping in view the fact that the insurance company has been held liable to satisfy the award, the service upon respondent No.1 is dispensed with.

The learned counsel for the appellants contends that the learned Tribunal has erroneously made the deduction at 1/3rd as number of dependents are four and wrongly applied the multiplier of 11 as the age of the deceased Gurmeet Singh was 48 at the time of accident. Nothing has been awarded towards loss of love & affection.

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.

Keeping in view the age of the deceased, the appropriate multiplier is '13' instead of '11'. Accordingly, multiplier of '13' is applied. Further, in view of the size of family deduction should be 1/4th, in view of the judgments delivered by the Hon'ble Supreme Court in ***Sarla Verma vs. DTC 2009 (3) RCR (Civil) 77.***

In this way, the amount of compensation under the head 'loss of dependency' would come to Rs.8,000/- + 30% X 12 X 13 X

3/4 = Rs.12,16,800/-, as against the amount of Rs.9,24,000/-, 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 Rs. 1,00,000/- is awarded to the children of the deceased for loss of love, care and guidance, in equal share and Rs.1,00,000/- is awarded to the mother of the deceased for loss of love and affection.

In view of the above, the appellants are held entitled to enhanced compensation of Rs.4,92,800/- [Rs.2,92,800/- (enhancement towards loss of dependency) + Rs.1,00,000/- (towards loss of love and affection payable to the mother of the deceased only) + Rs.1,00,000/- (towards loss of love, care and guidance payable to the children of the deceased, in equal share)], as indicated above, 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 as indicated in the award i.e. 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.

16.03.2016

**(JITENDRA CHAUHAN)
JUDGE**