

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

FAO-5174-2013 (O&M)
Date of decision: 07.04.2016

Poonam Chakti and others

...Appellants

Versus

Ram Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Ashwani Arora, Advocate and
Ms. Amandeep Kaur, Advocate for the appellants.

Mr. P. K. Bansal, Advocate for respondent Nos.1 and 2.

Mr. R. N. Singal, Advocate for respondent No.3.

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JITENDRA CHAUHAN, J.

CM No.22006-CII of 2013

Learned counsel for the appellants contends that the deficiency in Court fee has already been made good.

The delay in making up the deficiency of the Court fee is condoned.

CM stands disposed of.

CM No.22007-CII of 2013

For the reasons contained in the application, which is duly supported by an affidavit, the same is allowed and delay of 142 days in filing the appeal is condoned.

Main Case

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 25.10.2012, passed by learned Motor Accidents Claims Tribunal, Ferozepur, (for short, 'the Tribunal').

The learned counsel for the appellants contends that the deceased, Surinder Pal Chakti was 47 at the time of accident, therefore, the learned Tribunal has wrongly applied the multiplier of 11 as against the multiplier as of 13. Nothing has been awarded towards loss of love & affection and future prospects. Lastly, the learned counsel contends that the amount awarded under the conventional heads are on the lower side and deserves to be enhanced.

On the other hand, the learned counsel for the respondents have 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 carefully perused the entire record.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased, Surinder Pal Chakti was 47 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh, 2013(3) R.C.R. (Civil), 170 (SC)***, an addition of 30% is ordered on the actual income of the

deceased towards future prospects. As the matter pertaining the future prospects is pending adjudication by the Hon'ble the Supreme Court in SLP (Civil) No.16735 of 2014, therefore, the amount of future prospects be released on furnishing indemnity bond by the appellants.

Further, as per the law laid down in *Sarla Verma v. DTC (2009) 6 SCC 121*, the deceased being 47 years of age at the time of accident, the multiplier ought to have been 13 instead of 11, as assessed by the learned Tribunal.

In this way, the amount of compensation under the head of 'loss of dependency' comes to $(Rs.45,000/- + 30\%)/2$ (as there is contributory negligence) $\times 12 \times 13 \times 3/4 = Rs.34,22,250/-$, as against an amount of Rs.24,20,000/-, assessed by the learned Tribunal under this head.

Furthermore, nothing has been awarded towards loss of love and affection, therefore, following the law laid down in *Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776*, amount of Rs.50,000/- awarded towards loss of love and affection shall be payable to the mother of the deceased, Surinder Pal Chakti.

As per the law laid down in *Rajesh's case (supra)*, another amount of Rs.95,000/- towards loss of consortium awarded to the wife of the deceased, Surinder Pal Chakti, only and another amount of Rs.20,000/- awarded towards cremation and last rites.

In view of the above, the claimants are held entitled to the

enhanced compensation of Rs.11,67,250/- [Rs.10,02,250/- (enhancement towards 'loss of dependency') + Rs.50,000/- (towards loss of love and affection payable to the mother of the deceased, only) + Rs.20,000/- (enhancement towards cremation and last rites) + Rs.95,000/- (enhancement towards loss of consortium payable to the wife of the deceased only)] as indicated above, in the manner prescribed in the impugned award, 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 @ 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.

07.04.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**