

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

**FAO No.5240 of 2013
Decided on: 20.12.2016**

Seema Saini	Versus	Appellant
Ramesh Kumar and others		Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Amit Gupta, Advocate for the appellant.

Mr. R.C. Kapoor, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimant is in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Pathankot (in short 'the Tribunal') in regard to death of Jatinder Saini in a motor vehicular accident that took place on 30.06.2011.

The Tribunal assessed income of the deceased at Rs.4,500/- per month, deducted 1/3rd for personal expenses and adopted a multiplier of 18 to compute loss of dependency at Rs.6,48,000/-. In addition, an amount of Rs.9,500/- on account of general damages has been awarded making total compensation to Rs.6,57,500/-.

Counsel for the appellant has submitted that the Tribunal has not allowed benefit of increase in income for future prospects. Compensation awarded under conventional heads needs enhancement.

Counsel for the insurance company, on the contrary, has submitted that as the matter with regard to future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in view of reference made in ***“National Insurance Company***

Limited Vs Pushpa and others” vide ***SLP No.8058/2014***, the appellant is not entitled to the said benefit. However, a reasonable amount may be awarded under conventional heads.

I have heard counsel for the parties and perused the paperbook particularly the award passed by the Tribunal.

The mere fact that the reference is pending before a Larger Bench of Hon'ble the Supreme Court is not sufficient to deny benefit of increase in income for future prospects till the judgment in ***“Rajesh and others Vs. Rajbir Singh and others”***, 2013(3) R.C.R. (Civil) 170, is varied or set-aside. After extending benefit of future prospects to the extent of 50%, loss of dependency comes to ***Rs.9,72,000/-*** (Rs.6,48,000/- + Rs.3,24,000/-).

Under conventional heads, an amount of ***Rs.1,00,000/-*** for loss of consortium to the widow and ***Rs.50,000/-*** for loss of love and affection to the mother and ***Rs.25,000/- each*** for funeral expenses and loss of estate is awarded. The total compensation comes to Rs.11,72,000/- and the enhanced compensation is ***Rs.5,14,500/-*** (Rs.11,72,000/- – Rs.6,57,500/-) payable with interest @ 7.5% per annum from the date of petition till realization.

Out of the additional amount, 3/4th shall be payable to the widow and 1/4th to mother of the deceased. The amount falling to share of widow shall be deposited in a fixed deposit for a period of three years.

The appeal is partly allowed in the aforesaid terms.

20.12.2016

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1. Whether speaking/reasoned

Yes/No

(REKHA MITTAL)

JUDGE

2. Whether reportable: Yes/No