

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

FAO-462-2014 (O&M)

Date of decision: 15.01.2016

Rajni Bala and ors.

...Appellants

Versus

Surinder Singh Sethi and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rahul Rampal, Advocate for the appellants.

Mr. Jagmeet Singh, Advocate,
for respondent No.1

Mr. Satish Singla, Advocate,
for respondent No.2

Mr. Vinod Gupta, Advocate,
for respondent No.3

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 13.03.2013, passed by the learned Motor Accident Claims Tribunal, Ludhiana (for short, 'the Tribunal').

It is contended that the deceased, Vijay Kumar was

about 38 years of age at the time of his death in the accident. He was running a floor mill. The appellant No.1 is the wife and appellant Nos.2 to 4 are the minor children, whereas the appellant Nos.5 & 6 are the parents of the deceased. They were fully dependent upon the earnings of the deceased. The learned Tribunal has erred in not granting any compensation towards future prospects, loss of consortium, love and affection. The amount awarded under the conventional heads is also on the lower side and deserves to be enhanced.

On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.

I have heard the learned counsel for the parties and perused the record.

The fact of accident is admitted and proved. It stands established that deceased, Vijay Kumar died due to the fatal injuries suffered by him in the accident in question.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects of the deceased. Therefore, keeping in view the law laid down in ***Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54***, an increase of 50% is ordered towards

the head of 'future prospects'. In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.8,000/- + 50% X 12 X 15 X 3/4 = Rs.16,20,000/-, as against the amount of Rs.10,80,000/-, assessed by the learned Tribunal under this head.

Furthermore, it is noticed that the learned Tribunal has awarded an amount of Rs.5,000/- for 'cremation and last rites' and Rs.5,000/- for 'loss of consortium', which in the opinion of this Court, are on the lower side. Accordingly, the amount of Rs.5,000/-, awarded under the head 'cremation and last rites' is enhanced to Rs.25,000/- and Rs.5,000/-, awarded under the head 'loss of consortium' is enhanced to Rs.1,00,000/-. In view of law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, an amount of Rs.1,00,000/- is awarded to the children of the deceased for loss of love, care and guidance.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.7,55,000/- [Rs.5,40,000/- (enhancement towards loss of dependency) + 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) + Rs.1,00,000/- (towards loss of love, care and guidance payable to children of the deceased in

equal share)] 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.

15.01.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**