

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

**FAO No.5034 of 2014 (O&M)**

**Date of decision : 24.10.2016**

**Dalbir Singh and others**

.....Appellants

*Versus*

**Harjinder Singh and others**

...Respondents

**CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Amandeep Singh, Advocate for appellants.

Mr. Harsh Aggarwal, Advocate for respondent No.3.

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**DARSHAN SINGH, J.**

**CM-14346-CII-2014**

There is delay of 56 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, the same is hereby allowed and the delay of 56 days in filing the present appeal is hereby condoned.

**FAO No.5034 of 2014**

The present appeal has been preferred against the award dated 22.10.2013, passed by learned Motor Accidents Claims Tribunal, Tarn Taran (hereinafter called the 'Tribunal') vide which the appellants-

claimants have been awarded a sum of Rs.3,84,000/- as compensation on account of death of Smt. Sukhwinder Kaur in the motor vehicular accident which took place on 06.11.2010.

2. The present appeal has been filed by the appellants-claimants for enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and have gone through the paper-book carefully.

4. Learned counsel for the appellants-claimants contended that the learned Tribunal has determined the notional income of the deceased to be Rs.3000/- per month but has wrongly deducted 1/3<sup>rd</sup> of her income towards her personal and living expenses, which is not permissible in case of notional income. He further contended that no amount of compensation has been awarded to appellant-claimant Dalbir Singh, the husband of the deceased, towards loss of consortium. No amount has been awarded to the children of the deceased towards loss of love and affection and less amount has been awarded towards funeral expenses.

5. On the other hand, learned counsel for respondent-Insurance Company contended that appellant-claimant No.1 is the husband of deceased, so he was not dependent upon the income of the deceased. The compensation awarded by the learned Tribunal to the appellants-claimants under the other conventional heads is just and appropriate and no enhancement is called for.

6. I have duly considered the aforesaid contentions and

found considerable substance in the contentions raised by learned counsel for the appellants-claimants.

7. The learned Tribunal on appreciation of the evidence held that deceased was a housewife and only her notional income at the rate of Rs.3000/- per month has been taken into consideration to compute the compensation. The learned Tribunal has deducted 1/3<sup>rd</sup> of the notional income of the deceased towards her personal and living expenses. As per the Division Bench judgment of this Court in case ***Paramjit Singh and another Vs. Dilbag Singh alias Bagga and others 2014(4) RCR (Civil) 895***, deduction towards personal and living expenses in case of notional income is not permissible. So, the learned Tribunal has wrongly deducted 1/3<sup>rd</sup> income of the deceased towards her personal and living expenses. The entire notional income of the deceased shall be taken into consideration to determine the compensation. So, the notional income of the deceased shall be considered to be Rs.3000/- per month i.e. Rs.36,000/- per annum. The deceased was 35 years of age at the time of the accident, so the multiplier of 16 shall be applicable. Thus, the multiplicand comes to Rs.5,76,000/-.

8. Appellant-claimant Dalbir Singh, the husband of the deceased shall be entitled to Rs.1,00,000/- on account of loss of consortium. Appellants-claimants No.2 and 3 the minor son and daughter of the deceased shall also be entitled to Rs.1,00,000/- towards loss of love, care and guidance of their mother. The appellants-claimants shall also be entitled to Rs.25,000/- towards funeral and last rites expenses. In

this way, the total amount of compensation payable to the appellants-claimants comes to Rs.8,01,000/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.8,01,000/- from Rs.3,84,000/- as awarded by the learned Tribunal. The appellants-claimants shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain same as determined by the learned Tribunal in the main award.

**24.10.2016**

*sunil yadav*

**( DARSHAN SINGH )  
JUDGE**

**Whether speaking/reasoned : Yes / No**

**Whether reportable : Yes / No**