

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

FAO-5931-2013 (O&M)
Date of decision: 24.05.2016

Smt. Aruna @ Runa and others

...Appellants

Versus

Mahender Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Divay Sarup, Advocate
Amicus Curiae for the appellants.

Mr. Sandeep Goyat, Advocate
for respondent Nos.1 and 2.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3.

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JITENDRA CHAUHAN, J.

CM Nos.24457-24458-CII of 2013

After hearing the learned counsel for the parties and for the reasons contained in the applications, which are duly supported by an affidavit, same are allowed and delay of 189 days in re-filing and 39 days in filing the present appeal are condoned.

Mr. Divay Sarup, Advocate, present in the Court, is hereby appointed as Amicus Curiae to assist this Court on behalf of the appellants as none has put in appearance on behalf of the appellants.

Even on the last date of hearing, none has caused representation on

behalf of the appellants.

Main Case

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 15.09.2012, passed by learned Motor Accidents Claims Tribunal, Sonapat, (for short, 'the Tribunal').

The learned Amicus Curiae states that nothing has been awarded towards loss of love and affection and loss of love, care and guidance, which is contrary to the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others***, (2013-3) PLR 776; nothing has been awarded towards future prospects keeping in view the fact that the age of the deceased was 34 years at the time of accident; and the learned Tribunal has erroneously made the deduction at 1/3rd as number of dependents are five.

On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal and stated 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 was 34 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 50% is ordered on the actual income of the deceased towards future prospects. However, as the matter pertaining to the future prospects is pending adjudication before Hon'ble the Supreme Court in SLP (Civil) No.16735 of 2014, therefore, the amount of future prospects be released on furnishing of adequate indemnity bonds by the appellants.

Keeping in view the size of family, deduction should be $\frac{1}{4}^{\text{th}}$, in view of the judgment delivered by Hon'ble the Supreme Court in ***Sarla Verma vs. DTC***, 2009 (3) RCR (Civil) 77.

In this way, the amount of compensation under the head of 'loss of dependency' comes to ₹5400/- + 50% X 12 X 16 X $\frac{3}{4}$ = ₹11,66,400/-, as against an amount of ₹6,91,200/-, assessed by the learned Tribunal under this head.

Furthermore, nothing has been awarded towards loss of love and affection and loss of love, care and guidance, therefore, following the law laid down in Vimal Kanwar's case (supra), amount of ₹1,00,000/- awarded towards loss of love, care and guidance shall be payable to the children of the deceased, in equal shares and another amount of ₹1,00,000/- awarded towards loss of love and affection shall be payable to the mother of the deceased, only.

As per the law laid down in Rajesh's case (supra), another amount of ₹90,000/- towards loss of consortium payable to the wife of the deceased only and the claimants are also entitled for another

amount of ₹10,000/- towards cremation and last rites.

In view of the above, the appellant-claimants are held entitled to the enhanced compensation of ₹7,75,200/- [₹4,75,200/- (enhancement towards 'loss of dependency') + ₹1,00,000/- (towards loss of love, care and guidance payable to the children of the deceased, in equal shares) + ₹1,00,000/- (towards loss of love and affection payable to the mother of the deceased, only) + ₹10,000/- (enhancement towards cremation and last rites) + ₹90,000/- (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.

24.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**