

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

FAO-5421-2014 (O&M)
Date of decision: 09.05.2016

Smt. Geeta and others

...Appellants

Versus

Balkar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Raghav Sharma, Advocate for
Mr. Navmohit Singh, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No.3.

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JITENDRA CHAUHAN, J.

CM No.15087-CII of 2014

After hearing the learned counsel for the parties and for the reasons contained in the application, which is duly supported by an affidavit, same is allowed and delay of 219 days in filing the present appeal is condoned.

CM No.15088-CII of 2014

CM is allowed, as prayed for, subject to all just exceptions.

Main Case

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated

06.05.2013, passed by learned Motor Accidents Claims Tribunal, Kurukshetra (for short, 'the Tribunal').

The learned counsel for the appellants contends that deceased was 40 years of age. The learned Tribunal erred in not awarding anything towards future prospects which is contrary to the law laid down by the Hon'ble Supreme Court in ***Rajesh and others Vs. Rajbir Singh and others***, (2013) 9 SCC 54. It is further contended that the compensation awarded by the learned Tribunal under the conventional heads is also on the lower side and deserves to be enhanced.

On the other hand, the learned counsel for respondent No.3 has 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 perused the 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, Mahi Pal was 40 years of age at the time of his death. Therefore, keeping in view the law laid down in Rajesh's case (supra), an addition of 30% is ordered to be made in the actual income of the deceased towards future prospects.

In this way, the amount of compensation under the head of 'loss of dependency' comes to ₹7200/- + 30% X 12 X 15 X 3/4 = ₹12,63,600/-, as against an amount of ₹9,72,000/-, assessed by the

learned Tribunal under this head.

Furthermore, following the law laid down in *Vimal Kanwar and others Vs. Kishore Dan and others*, (2013-3) PLR 776, amount of ₹1,00,000/- towards loss of love and affection shall be payable to the children of the deceased, in equal shares.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of ₹3,91,600/- [₹2,91,600/- (enhancement towards 'loss of dependency') + ₹1,00,000/- (towards loss of love and affection payable to the children of the deceased, in equal shares)] 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.

09.05.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**