

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

FAO No.6169 of 2013

Date of decision : 10.08.2016

Gurtej Kaur alias Tej Kaur and others

.....Appellants

Versus

Nishan Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Vishwajeet Bedi, Advocate for appellants.

Mr. Dhirender Chopra, Advocate for respondents No.1 and 1A.

Mr. Rajneesh Malhotra, Advocate
for respondent No.2-Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 23.07.2013 passed by the learned Motor Accidents Claims Tribunal, Patiala (hereinafter called the “Tribunal”) vide which the appellants-claimants have been awarded compensation to the tune of ₹ 7,28,144/- along with interest at the rate of 7.5% per annum on account of the death of Hazara Singh in the motor vehicular accident which took place on 22.07.2011 near Gurudwara Khichadi Sahib Balbehra, Distt. Patiala.

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

3. Learned counsel for the appellants contended that the

deceased was a retired Subedar from the Indian Army. He was also an agriculturist. The learned Tribunal has taken into consideration the agricultural income of the deceased. No future prospects have been awarded to the income of the deceased. The deduction towards personal and living expenses has also been applied wrongly. Similarly, the multiplier applied by the learned Tribunal is also wrong. Thus, he contended that the compensation awarded by the learned Tribunal is highly inadequate.

4. On the other hand, learned counsel appearing for the respondents contended that the learned Tribunal has awarded just compensation. The compensation has been adequately awarded under all the heads. Thus, he contended that there is no scope of any further enhancement in the amount of compensation.

5. I have duly considered the aforesaid contentions.

6. Deceased Hazara Singh was 54 years of age at the time of the death in this accident. He had retired as a Subedar from Indian Army and was getting ₹16,754/- as pension. It is not disputed that he was also having the agricultural income. The claimants have brought on record the Jamabandi Ex.C-11, which shows that the legal representatives of deceased Hazara Singh have inherited his land. Thus, there is no denial to the fact that during his life time deceased Hazara Singh used to manage the land. Even though the land has been inherited by the legal representatives of deceased Hazara Singh but the claimants have been deprived of his managerial skill and manual aid in the agriculture work. The value of these services can safely be taken to be ₹3000/- per month. He was 54 years of age. So, the

claimants shall be entitled to addition of 15% as future prospects to this agriculture income of the deceased, which comes to ₹3450/-. In this way, the total income of the deceased comes to ₹20,204/- (16,754 pension + 3450 agriculture income). The annual income of the deceased comes to ₹2,42,448/-. 1/3rd income of the deceased shall be deducted towards his living and personal expenses. The remainder comes to ₹1,61,632/- (2,42,448 - 80,816). In view of the age of the deceased, the multiplier of 11 shall be applicable. So, the loss of dependency comes to ₹17,77,952/-. Learned Tribunal has rightly awarded a sum of ₹1,00,000/- to appellant-claimant No.1 Smt. Gurtej Kaur, widow of deceased towards loss of consortium and ₹25,000/- towards funeral expenses. The total amount of compensation payable to the claimants comes to ₹ 19,02,952/-.

7. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to ₹19,02,952/- from ₹7,28,144/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate as determined by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

10.08.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No