

## IN THE HIGH COURT OF PUNJAB &amp; HARYANA AT CHANDIGARH

**FAO No. 5694 of 2014 (O&M)**  
**Date of Decision : 09.12.2016**

Usha and others

....Appellants

Versus

Mohan Lal and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. M.S.Khillan, Advocate  
for the appellants.

Mr. D.R. Bansal, Advocate  
for respondent no. 2.

Mr. Naveen Sharma, Advocate  
for Mr. V. Ramswaroop, Advocate  
for respondent no. 3.

**Surinder Gupta, J.**

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Karnal (later referred to as 'the Tribunal') for death of Hukam Chand (later referred to as 'the deceased'), in a motor vehicle accident on 20.06.2012 with tanker bearing registration no. HR-38-E-1938 (later referred to as 'the offending vehicle').

2. As the issue involved in this appeal is claim of appellants seeking enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal allowed compensation of ₹10,06,200/- to claimants, which was computed as follows:-

| <b><i>Sr.No.</i></b> | <b><i>Heads</i></b>  | <b><i>Calculation</i></b> |
|----------------------|----------------------|---------------------------|
| (i)                  | Name of the deceased | Hukam Chand               |
| (ii)                 | Age of the deceased  | 41 years                  |

|              |                                                                              |                                                               |
|--------------|------------------------------------------------------------------------------|---------------------------------------------------------------|
| (iii)        | Income of the deceased                                                       | ₹6000/- per month                                             |
| (iv)         | 30% addition of (iii) towards future prospects                               | (₹6000-₹1800)=<br>₹7800 per month                             |
| (v)          | 1/4 <sup>th</sup> of (iv) deducted towards personal expenses of the deceased | (₹7800-1950)=<br>₹5850 per month<br>(rounded off to<br>₹5900) |
| (vi)         | Amount of dependency after applying the multiplier of 14                     | (₹5900x12x14)=<br>₹991200                                     |
| (vii)        | Compensation for loss of consortium                                          | ₹10000                                                        |
| (viii)       | Compensation towards transportation and last rites                           | ₹5000                                                         |
| <b>Total</b> |                                                                              | <b>₹1006200</b>                                               |

4. Learned counsel for appellants while assailing the assessment of income of the deceased by the Tribunal has sought enhancement of compensation on following counts:-

- (i) Compensation awarded towards loss of consortium to wife of the deceased as ₹10000/- is on lower side. She is entitled to ₹1 lac on this score.
- (ii) No compensation was allowed to children of the deceased towards loss of love and affection care and guidance and to mother of the deceased towards loss of estate.
- (iii) Funeral expenses awarded to claimants as ₹5000/- is also on lower side.

5. Learned counsel for respondents have argued that the Tribunal has allowed just and reasonable amount of compensation as per price index prevailing at the time of accident, which calls for no further enhancement.

6. The Tribunal allowed compensation of ₹10,000/- towards loss of consortium and ₹5000/- towards transportation and funeral expenses of the deceased, which are on lower side. The Tribunal has not allowed compensation to children of the deceased. As per observations of Apex Court in case of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54**, wife of the deceased is entitled to compensation of ₹1 lac towards loss of

consortium and children to an equal sum of ₹1 lac towards loss of love and

affection care and guidance. Claimants are also entitled to ₹25,000/- towards transportation and funeral expenses of the deceased. Mother of the deceased is entitled to ₹1 lac towards loss of estate, love and affection as per observations of Apex Court in **Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476,**

7. In view of my above discussion, compensation to which claimants are entitled is reassessed as follows:-

| <b><i>Sr. No.</i></b> | <b><i>Heads</i></b>                                                     | <b><i>Calculation</i></b>                                                                       |
|-----------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| (i)                   | Income of the deceased as assessed by the Tribunal                      | ₹6000 per month                                                                                 |
| (ii)                  | 30% of (i) above to be added as future prospects                        | (₹6000+₹1800)=<br>₹7800 per month                                                               |
| (iii)                 | 1/4 <sup>th</sup> of (ii) deducted as personal expenses of the deceased | ₹7800 - ₹1950) =<br>₹5850 per month<br>(rounded off to<br>₹5900 as assessed by<br>the Tribunal) |
| (iv)                  | Annual amount of dependency after multiplier of 14 is applied           | (₹5900X12X14) =<br>₹991200                                                                      |
| (v)                   | Loss of consortium for the wife                                         | ₹100000                                                                                         |
| (vi)                  | Loss of love and affection care and guidance for the children           | ₹100000                                                                                         |
| (vii)                 | Loss of estate for mother of the deceased                               | ₹100000                                                                                         |
| (vii)                 | Transportation and funeral expenses                                     | ₹25000                                                                                          |
| <b><i>Total</i></b>   |                                                                         | <b>₹1316200</b>                                                                                 |

8. As a sequel of my discussion above, the instant appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Hukam Chand is enhanced from ₹10,06,200/- to ₹13,16,200/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the claim petitions till actual realization. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimants-appellants no. 1 and 5 in their bank accounts or pay the same through demand drafts.

The share of claimants-appellants No. 2 to 4, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their name after the date of their attaining majority. The above direction has been issued to save claimants from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after minor claimant has attained age of majority. Claimant no. 1-Usha Rani, being mother and natural guardian of minor claimants shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up.

9. In the event of demise of any of the claimants before or after passing of award, compensation of his/her share shall be paid to surviving claimants.

**December 09, 2016**  
jk

**( SURINDER GUPTA)**  
**JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*