

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

**FAO No.5495 of 2015 (O&M)
Date of Decision: February 24, 2016**

Rekha Rani and others

.....APPELLANTS.

VERSUS

Parshant Kumar and others

.....RESPONDENTS.

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ram Pal Verma, Advocate
for the appellants.

Ms. Madhu Sharma , Advocate
for respondent No.4-Insurance Company.

SURINDER GUPTA, J.

This is an appeal by Rekha Rani and other claimants, seeking enhancement of compensation, allowed vide award dated 11th February, 2015, passed by Motor Accident Claims Tribunal, Sonapat (later referred to as 'the Tribunal'), whereby, the compensation amount of ₹9,45,000/- was allowed for death of Om Parkash alias Parkash, husband of claimant No.1, father of claimants No.2 and 3 and son of claimant No.4, in a motor vehicle accident with motorcycle bearing registration No. DL-4SAJ-9614 (later referred to as 'the offending vehicle').

2. Learned counsel for the appellants has sought enhancement of compensation on three grounds. Firstly, that no compensation has been

allowed for the loss of love and affection, care and guidance for the minor children of the deceased; secondly, the amount of ₹10,000/- allowed towards loss of estate for claimant No.4 is on lower side; and thirdly, the Tribunal has not allowed future prospects as per observations in the case of ***Rajesh and others vs. Rajbir Singh and others, 2013 (9) CC 54*** and ***Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015 (6) SCC 347***.

3. Learned counsel appearing for the respondent no. 4-Insurance Company has argued that the Tribunal has to award just and reasonable compensation and it has taken into account all the relevant factors, while reaching the conclusion that the amount of ₹9,45,000/- be paid to the claimants as compensation for death of Om Parkash. The compensation allowed by the Tribunal is just and reasonable and call for no upward revision.

4. As the only issue raised in this case pertains to the award of compensation, facts of the case are not being discussed in detail.

5. The accident took place on 12th April, 2014. As observed by the Tribunal, the deceased was 37 years of age, who was able bodied person, but in the absence of any cogent evidence regarding his income, the Tribunal assessed his income as ₹6000/- per month, which the learned counsel for the appellants has not challenged.

6. As per observations in the case of ***Rajesh (supra)*** and ***Munna Lal Jain (supra)*** the claimants are entitled to grant of addition of 50% in income of the deceased towards future prospects. The claimants are also entitled to compensation of ₹1,00,000/- for the loss of love and affection, care and guidance for the minors. The Tribunal has allowed ₹10,000/- as

compensation to claimant No.4, the mother of the deceased, for the loss of love and affection and estate. This amount also calls for enhancement to ₹ 1,00,000/- as per observations in the case of Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476.

7. Taking the above factor into account, compensation to which claimants are entitled is tabulated as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased Om Parkash	₹6000 per month
(ii)	50% of (i) above to be added as future prospects	₹6000 + ₹3000 = ₹9000 per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	₹9000- ₹2250 = ₹6750 per month
(iv)	Compensation after multiplier of 15 is applied	(₹6750X12X15) = ₹1215000
(v)	Loss of consortium as allowed by the Tribunal	₹100000
(vi)	Loss of estate, love and affection	₹100000
(vii)	Loss of love and affection, care and guidance	₹100000
(vii)	Funeral expenses as allowed by the Tribunal	₹25000
<i>Total</i>		₹1540000

8. In view of my above discussion, the instant appeal has merits and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Om Parkash is enhanced from ₹9,45,000/- to ₹15,40,000/-. The amount of compensation will carry interest @ 7.5% per annum from the date of filing of the claim petitions till actual realization. The amount of compensation shall be shared equally by the claimants. Respondent No. 4 being insurer of the offending vehicle will deposit the share of claimants in their bank accounts or pay the same through demand drafts. The share of appellants No. 2 to 3, who, as per their age given at the time of filing of the petition, are still minor, will be deposited

in a nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minor as required at the time of deposit of the amount and the minor shall not be asked to bring the 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 the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed @ ₹20,000/-.

February 24, 2016.
deepak/jv.

(SURINDER GUPTA)
JUDGE