

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

FAO No.732 of 2014 (O&M)

Date of decision : 11.03.2016

Simi and another

.....Appellants

Versus

Shri Jitender Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Ms. Ekta Thakur, Advocate for appellants.

DARSHAN SINGH, J.

CM-2371-CII-2014

There is delay of 160 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay in filing the present appeal stands condoned.

FAO No.732 of 2014

The present appeal has been preferred by the appellants-claimants against the award dated 08.03.2013 passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the 'Tribunal'), vide which the claimants have been awarded compensation to the tune of Rs.9,92,800/- on account of death of their son Ankit Thakur in the motor vehicular accident, which took place on 07.04.2012.

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

3. Notice of the present appeal was issued to the respondents, but they were proceeded against *ex parte* vide order dated 24.03.2015.

4. Learned counsel for the appellants contended that the deceased was 20 years of age at the time of his death. The learned Tribunal has awarded only 30% of his income towards the future prospects, which should have been 50%.

5. She further contended that the funeral expenses have been awarded less and no amount has been awarded towards loss of love and affection.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has held the age of the deceased to be 20 years on the date of the accident and his death, on the basis of his date of birth recorded in the Matriculation Marks-sheet Ex.P1. So, deceased was 20 years of age at the time of his death. The learned

Tribunal has further held that he was working with M/s Berekely Automobiles Ltd., Industrial Area, Chandigarh as Helper Tech. and was getting Rs.6100/- per month as salary. The annual income of the deceased comes to Rs.73,200/- (6100 x 12). In para No.11 of the impugned award, the learned Tribunal has wrongly calculated the annual income of the deceased to be Rs.84,000/-, which should have been Rs.73,200/- per annum.

8. The learned Tribunal has wrongly awarded the future prospects of only 30% but in view of the age of the deceased, the future prospects should have been awarded to the extent of 50% of the income of the deceased. After making this addition, the income of the deceased comes to Rs.1,09,800/- (73200 + 36600). 50% of the aforesaid amount shall be deducted towards the personal and living expenses of the deceased. The remainder comes to Rs.54,900/-. As per the age of the deceased, the multiplier of 18 shall be applicable. So, the loss of dependency comes to Rs.9,88,200/-.

9. In addition to the aforesaid amount, the appellants shall be entitled to Rs.25,000/- towards funeral expenses, instead of Rs.5000/- awarded by the learned Tribunal.

10. The learned Tribunal has not awarded any amount to the claimants towards loss of love and affection of their son. In view of the law laid down by Hon'ble Apex Court in case ***Vimal Kanwar and others vs. Kishore Dan and others 2013 (2) RCR (Civil) 945***, they will be entitled to a sum of Rs.1,00,000/- towards loss of love and affection of

their son. The claimants will also be entitled to Rs.5000/- towards loss to estate as awarded by the learned Tribunal.

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.11,18,200/- from Rs.9,92,800/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate, as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

11.03.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**