

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

FAO No.82 of 2014 (O&M)

Date of decision : 08.11.2016

Kuldip Singh and others

.....Appellants

Versus

Vijay Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Ms. Ekta Thakur, Advocate for appellants.

Ms. Anamika Mehra, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 28.02.2013, passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the “Tribunal”), vide which they have been awarded compensation to the tune of Rs.7,88,000/- on account of the death of Smt. Swaran Kaur in the motor vehicular accident which took place on 22.01.2011.

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

3. I have heard learned counsel for the parties and gone through the record of the case meticulously.

4. Learned counsel for the appellants-claimants contended that the learned Tribunal has awarded less compensation for the conventional

heads. She further contended that only Rs.5000/- have been awarded to appellant-claimant Kuldip Singh the husband of the deceased on account of loss of consortium. No amount have been awarded as compensation to the five minor children due to loss of loss and affection of their mother. Less amount has been awarded towards funeral expenses.

5. On the other hand, learned counsel appearing for respondent-Insurance Company contended that the compensation awarded by the learned Tribunal is just and appropriate keeping in view the antecedents, age and income of the deceased. Thus, the impugned award does not call for any interference.

6. I have duly considered the aforesaid contentions.

7. I found considerable substance in the contentions raised by learned counsel for the appellants. Deceased Smt. Swarn Kaur was a housewife. The claimants in this case are Kuldip Siongh, husband of the deceased, Amandeep Kaur, Rajwinder Kaur, Raj Rani and Rajni Devi the minor daughters and Gurab Singh the minor son of the deceased. The learned Tribunal has awarded only Rs.5000/- as loss of consortium to the husband of the deceased. This amount is highly inadequate and the same is enhanced to Rs.1,00,000/-. The learned Tribunal has not awarded any amount to the minor claimants towards the loss of love, care and guidance of their mother. The deceased was having five minor children. In case ***Rajesh and others Vs. Rajbir Singh and others and others (2013) 9 SCC 54*** there were three minor children of the victim and the learned Apex Court has awarded Rs.1,00,000/- towards loss of care and guidance for minor children. In the instant case, as the deceased has five children, so,

Rs.2,00,000/- is awarded towards loss of love, care and guidance to the minor children. The learned Tribunal has only awarded Rs.10,000/- on account of funeral expenses. The same are very less and enhanced to Rs.25,000/-. The total amount of compensation payable to the claimants comes to Rs.10,98,000/-.

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellant-claimant is enhanced to Rs.10,98,000/- from Rs.7,88,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest at the rate as awarded by the learned Tribunal on the enhanced amount of compensation from the date of filing the claim petition till realisation. The liability to pay the enhanced amount and the apportionment amongst the claimants shall remain as determined by the learned Tribunal in the main award.

08.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No