

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

FAO No.8459 of 2014 (O&M)

Date of decision : 04.11.2016

Darshani Devi and another

.....Appellants

Versus

Rustam Mohammad and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Bahadur Singh, Advocate for appellants.

Mr. Sutikshan Sharma, Advocate for respondents No.1 & 2.

Mr. Ankur Gupta, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 17.04.2014, passed by the learned Motor Accidents Claims Tribunal, Yamunanagar at Jagadhri (hereinafter called the "Tribunal"), vide which appellants-claimants have been awarded compensation to the tune of Rs.6,44,368/- on account of the death of their son Sunny in the motor vehicular accident which took place on 28.06.2011.

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 wrongly applied the multiplier of 14 taking into consideration the age of the claimants. He contended that the multiplier as

per the age of the deceased should have been applied. He further contended that the learned Tribunal has not awarded any compensation towards loss of love and affection to the claimants who are the parents of the deceased. Less amount has been awarded towards funeral expenses. Thus, he contended that just amount of compensation has not been awarded.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the question regarding the selection of the suitable multiplier has been referred to the Larger Bench by the Hon'ble Apex Court. So, it cannot be claimed that the multiplier should have been applied as per the age of the deceased. He further contended that appropriate amount of compensation has been awarded under other conventional heads.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has applied the multiplier of 14 taking into consideration of the age of the mother of the deceased. A Three Judges Bench of the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, has laid down that the multiplier should be applied as per the age of the deceased. Mere this fact that the matter regarding multiplier has been referred to the Larger Bench is no ground at this stage to discard the contentions raised by learned counsel for the appellants. So, the multiplier in this case is required to be applied as per the age of the deceased. The deceased was 26 years of age as per the postmortem report. So, the multiplier of 17 shall be applicable. The learned Tribunal has determined the annual loss of dependency to be Rs.45,312/-. So, the total loss of dependency comes to Rs.7,70,304/- (45,312 x 17).

8. Both the appellants-claimants are parents of the deceased. The learned Tribunal has not awarded any amount to them towards loss of love and affection of their son. They will be entitled to Rs.1,00,000/- towards loss of love and affection. The learned Tribunal has awarded only a sum of Rs.5000/- towards funeral and last rites expenses. This amount is enhanced to Rs.25,000/-. The learned Tribunal has rightly awarded Rs.5000/- towards loss of estate. So, the total amount of compensation payable to the appellants-claimants comes to Rs.9,00,304/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to the appellants-claimants is enhanced to Rs.9,00,304/- from Rs.6,44,368/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation and the apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the main award.

04.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No