

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

FAO No. 9347 of 2014
Date of Decision: 01.03.2016

RUPINDER KAUR AND ORS

....Appellant

Versus

AALIM AND ORS

....Respondents

CORAM:HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. Sagar Aggarwal, Advocate
for the appellants.

Ms. Kaavya Jariyal, Advocate for
Mr. T.K. Joshi, Advocate
for respondent No.3.

SNEH PRASHAR, J.

The appellants-claimants filed this appeal seeking enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, Sonapat (for short, the Tribunal) vide award dated 29.08.2014 on account of death of Harvinder Singh (father of appellants No. 1 to 3 and husband of appellant No.4) in a motor vehicular accident.

Submissions made by Mr. Sagar Aggarwal, Advocate representing the appellants and Ms. Kaavya Jariyal, Advocate representing respondent No.3-Insurance company have been heard and record perused.

It is contended by learned counsel for the appellants that despite the fact that the deceased was a skilled worker being a driver and used to earn Rs. 10,000/- per month, learned Tribunal assessed his income as Rs.5000/- per month treating him to be a casual labourer. The deceased is survived by his wife, a daughter and two sons but no amount has been allowed to the children on account of loss of love, care and guidance. The amount awarded under the heads of loss of consortium, loss of estate, funeral and transportation expenses is also on the lower side.

Learned counsel appearing for the respondent-Insurance Company submitted that the appellants have been adequately compensated under all heads and the present appeal deserves outright dismissal.

It is not a contentious issue that Harvinder Singh died due to the serious and fatal injuries suffered by him in a motor vehicular accident caused by respondent No.1(driver of the offending vehicle). The deceased was 48 years old at the time of accident. No substantive or documentary evidence was produced by the claimants regarding income of the deceased. In the absence of required evidence the learned Tribunal taking the deceased to be an unskilled labourer has rightly assessed his income as Rs. 5,000/- per month.

No doubt, the deceased was not in a permanent employment but keeping in view the law laid down by Hon'ble Supreme Court in **Rajesh and others vs. Rajbir Singh and others, 2013(3) R.C.R. (Civil) 170,** as the deceased was 48 years old, an addition of 30% to

his actual income computing future prospects is allowed.

In view of *Vimal Kanwar and others Vs. Kishore Dan and others 2013(2) RCR (Civil) 945* the amount awarded under conventional heads is enhanced/allowed as under:

- 1. Loss of consortium/Estate from Rs.40,000 to Rs. 1,00,000/-
- 2. Funeral and Transportation Expenses from Rs.10,000/- to Rs.25000/-
- 3. Loss of Love, care and guidance to the children Rs.1,00,000/-.

Accordingly, the total compensation works out as under:

1.	Monthly income (in Rupees)	Rs.5000/-
2.	Actual age of the deceased	48 years
3.	Increase in future income as per Rajesh and others' case (supra)	Rs.1500/-(5000 of 30%)
4.	1/4 th Deduction towards personal expenses of the deceased.	Rs.1625/-
5.	Annual dependency	Rs.4875 X 12=58500/-
6.	Multiplier	Rs.58500 x 13= 7,60,500/-
7.	Conventional Head	Rs.2,25,000/-
8.	Total	Rs.9,85,500/-

The enhanced amount of Rs. 3,50,500/-(Rs.9,85,500-Rs.6,35,000) shall be paid to the appellants-claimantsby respondent No.3-Insurance Company within two months from the date of receipt of the certified copy of this judgment, failing which it shall carry interest @ 7.5 % per annum from the date of filing of the appeal, till its realisation. The enhanced amount shall be disbursed to the appellants-claimants in the manner indicated in the impugned award.

The present appeal is partly allowed and the impugned award dated 29.08.2014 is modified to the above extent.

March 01, 2016
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[SNEH PRASHAR]
JUDGE