

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

FAO-9648-2014 (O&M)
Date of decision: 26.04.2016

Ved Ram and another

...Appellants

Versus

Subhash Chand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B. S. Tewatia, Advocate for the appellants.

Ms. Neha Rathi, Advocate for
Mr. S. K. Panwar, Advocate for respondent No.1.

None for respondent Nos.2 and 3.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 22.08.2014, passed by learned Motor Accidents Claims Tribunal, Palwal (for short, 'the Tribunal').

The learned counsel for the appellants contends that the learned Tribunal has wrongly assessed the income of the deceased, Aman at Rs.4500/- per month whereas he had been earning Rs.7,000/- per month as he was working under a Pvt. Labour Contractor. The amount awarded under the conventional heads are on the lower side

and deserves to be enhanced. Nothing has been awarded towards future prospects.

On the other hand, the learned counsel appearing on behalf of respondent No.1 states that the learned Tribunal has awarded a just and reasonable compensation and prays for dismissal of the present appeal.

I have heard the learned counsel for the parties and perused the record.

The learned counsel for the appellants has not placed on record any documentary evidence which suggests the exact monthly income of the deceased was at Rs.7,000/-, therefore, considering the deceased as casual workman, the learned Tribunal has rightly assessed his income at Rs.4500/- per month.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased, Aman was 19 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh, 2013(3) R.C.R. (Civil), 170 (SC)***, an addition of 50% is ordered in the actual income of the deceased towards future prospects.

Keeping in view the age of the deceased, the appropriate multiplier is '18' instead of '16'. Accordingly, multiplier of '18' is applied. Further, in view of the fact that the deceased was bachelor,

deduction should be half, in view of the judgments delivered by Hon'ble the Supreme Court in ***Sarla Verma vs. DTC 2009 (3) RCR (Civil) 77.***

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.4500/- + 50% X 12 X 18 X 1/2 = Rs.7,29,000/-, as against an amount of Rs.3,78,000/-, assessed by the learned Tribunal under this head.

Furthermore, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776,*** another amount of Rs.95,000/- awarded towards loss of estate shall be payable to the parents of the deceased, in equal shares.

As per the law laid down in ***Rajesh's case (supra),*** another amount of Rs.10,000/- awarded towards the head cremation and last rites.

In view of the above, the claimant-appellants are held entitled to the enhanced compensation of Rs.4,56,000/- [Rs.3,51,000/- (enhancement towards 'loss of dependency') + Rs.95,000/- (enhancement towards loss of estate payable to the parents of the deceased, in equal shares) + Rs.10,000/- (enhancement towards cremation and last rites)] as indicated above, in the manner prescribed in the impugned award, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing

which, they shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

26.04.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**