

FAO-9998-2014(O&M) with Cross objection No.243-CII-2015 1

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

**FAO-9998-2014(O&M) with
Cross objection No.243-CII-2015
Date of decision : 09.05.2016**

United India Insurance Company Ltd.

... Appellant

Versus

Shakuntla Devi and others

... Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. S. S. Sidhu, Advocate
for the appellant.

Mr.Nitin Mittal, Advocate
for cross-objectors/ respondent Nos.1 to 3.

Mr. Ashok Jindal, Advocate
for respondent No.4.

JITENDRA CHAUHAN, J.(ORAL)

This appeal is preferred by the Insurance Company against the impugned award dated 03.09.2014, passed by learned Motor Accidents Claims Tribunal, Patiala (for short,'the Tribunal'), and the cross-objection filed by the respondent Nos.1 to 3-applicants for enhancement of the compensation.

The learned counsel for the appellant/non-applicant contends that the amount awarded by the learned Tribunal is on higher side. The learned Tribunal has erred in holding that the deceased was an ice cream

FAO-9998-2014(O&M) with Cross objection No.243-CII-2015 2

seller in the absence of any corroborative evidence on record and in assessing the income of the deceased @ ₹8000/- per month. Therefore, the award passed by the learned Tribunal is liable to be set aside.

On the other hand, the learned counsel for respondents No.1 to 3- applicants states that the compensation awarded by the learned Tribunal is inadequate and on the lower side. It is further submitted that nothing has been awarded towards loss of Estate, loss of love and affection to the claimants and towards litigation charges.

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

From the testimony of CW-2 Rajesh Verma and the charge sheet Ex.C5 and the FIR Ex.C7, the death of Vasdev is duly proved on record. As per the claim petition, the deceased was an Ice Cream seller. He was the sole bread winner of the family. Even otherwise a labourer in these days earns from ₹250/- to ₹300/- per day. Therefore, amount which is close to the minimum wages cannot be said to be on the higher side.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of loss of love and affection. Accordingly, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, an amount of ₹1,00,000/- is awarded to the children of the deceased in equal shares for loss of love and affection.

In view of the above, the appeal of the appellant- Insurance Company is dismissed and Cross-objection of the respondent Nos.1 to 3-

FAO-9998-2014(O&M) with Cross objection No.243-CII-2015 3

claimant/applicants is partly allowed and another ₹1,00,000/- (towards 'loss of love and affection payable to the children of the deceased in equal shares') as indicated above, is awarded to respondent Nos.1 to 3-claimant/applicants 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.

The statutory amount, if any, deposited by the appellant be placed at the disposal of the Tribunal for disbursement.

(JITENDRA CHAUHAN)
JUDGE

May 09, 2016.
Davinder Kumar