

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

FAO No. 743 of 1995 (O&M)

Date of decision: 17.05.2017

Mrs. Sushma Gupta and others

... Appellants

Versus

Naresh Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. V.K. Mahajan, Advocate for the appellants.

Mr. Ashwani Talwar, Advocate
for the respondent-Insurance Co.

HARI PAL VERMA, J. (ORAL)

The appellant-claimants have filed the present appeal against the award dated 05.10.1994 seeking modification/enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal').

Briefly stated, as per claim petition, on 26.11.1988 Ramesh Kumar Gupta (husband of appellant No.1 and father of appellant No. 2 to 5) had gone to the factory of Narindra Engineering Works, D-146, Focal Point Ludhiana in connection with his business on his scooter registration No.PCF-7981. On reaching factory, he parked his scooter near its gate and was about to enter the factory, when a truck bearing registration No.PJK-1596 came from the side of gate being driven rashly and negligently

struck against Ramesh Kumar Gupta from behind and wheels of the truck passed over him as a result of which he died at the spot. Appellant-claimants filed a claim petition under section 166 of the Motor Vehicles Act seeking compensation amounting of Rs.7,00,000/- on account of death of Ramesh Kumar Gupta.

On the basis of the evidence, which included income tax return furnished by the deceased, the Tribunal assessed the income of deceased at Rs.1800/- per month and considering his age as 45 years, applied multiplier of 10. In this manner, the Tribunal awarded a total compensation of Rs.1,44,000/-($1800 - \frac{1}{3} \times 12 \times 10$). Aggrieved against the aforesaid award, the claimants have filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that considering the age of the deceased, the Tribunal should have applied the multiplier of 14 instead of 10. He has further argued that tribunal has not awarded any amount of compensation under the conventional heads i.e. loss of consortium, love and affection and funeral expenses. He has prayed for enhancement of compensation.

On the other hand, learned counsel for the respondent-Insurance Company has submitted that it being an accident which took place on 26.11.1988, the Tribunal has already awarded adequate compensation and, therefore, no enhancement is warranted.

I have heard learned counsel for the parties.

There is no dispute regarding the income of the deceased Ramesh Kumar Gupta, who was 45 years of age at the time when he died in the accident. He left behind a widow and four children. One son (Punit Gupta) one daughter (Shelly Gupta) are minor. The Tribunal deducted $\frac{1}{3}$ rd income towards the personal expenses of the deceased whereas, the deductions should have been $\frac{1}{4}$ th keeping in view the number of dependents who are five in number. The tribunal has applied multiplier of 10, however, considering the age of the deceased, it should have been 14.

Accordingly, while computing the compensation and considering the $\frac{1}{4}$ th deduction and applying multiplier of 14, the loss of dependency comes to Rs.2,26,800/- (Rs.1800- $\frac{1}{4}$ x 12 x 14).

The tribunal has not awarded any amount of compensation under the conventional heads i.e. loss of love and affection, loss of consortium and funeral expenses. This Court finds that the appellant Nos. 2 to 5 are entitled to Rs.2,00,000/- towards loss of love and affection (Rs.50000/- each). The appellant No.1 is also entitled for Rs.50,000/- towards loss of consortium. They shall also be entitled for a sum of Rs.10,000/- towards funeral expenses. Thus, the appellant-claimants are held entitled to a total compensation of Rs.4,86,800/- (Rs.226800+50000+ 50000+ 50000 +50000 + 50000 + 10000).

The Tribunal has already awarded a sum of Rs.1,44,000/-, therefore the claimants are entitled for an additional amount of Rs.3,42,800/- over and above the amount awarded by the Tribunal. The enhanced amount of compensation shall fetch interest @ 6% per annum from the date of filing of claim petition till realization.

With the aforesaid modification in the award, the present appeal stands disposed of

(HARI PAL VERMA)
JUDGE

17.05.2017

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Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No