

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

**FAO No. 3746 of 2001 (O&M)
Date of Decision: 16.05.2017**

Smt. Durgawati and others

..... Appellants

Versus

Bhira and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No. 3-Insurance Company.

HARI PAL VERMA, J. (ORAL)

Appellants-claimants, namely, Smt. Durgawati (widow of deceased-Barmeshwar Pal), Sradanand Pal and Devanandan Pal (minor sons of deceased) have filed the present appeal seeking enhancement in the compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (in short the 'Tribunal') vide its award dated 19.07.2001.

The claim petition was filed by the appellants-claimants on account of death of Sh. Barmeshwar Pal, aged about 45 years, in a motor vehicular accident, which took place on 07.09.2000. The Tribunal has awarded a total sum of Rs. 7,68,000/- as compensation.

Aggrieved against the aforesaid award and in order to seek enhancement of compensation, the appellants-claimants have filed the present appeal.

Learned counsel for the appellants-claimants has argued

that the deceased-Barmeshwar Pal was working with the Punjab State

Cooperative Milk Fed. Corporation and used to draw a salary of Rs. 6,613/- per month. However, the Tribunal, while awarding compensation, has considered the salary of deceased as Rs. 5,907/- per month after deduction. After applying 1/3rd deduction, the dependency of claimants was fixed at Rs. 4,000/- per month i.e. Rs. 48,000/- per annum. Thus, while applying multiplier of 16, the Tribunal has awarded the compensation of Rs. 7,68,000/-. Learned counsel for the appellants has also argued that taking into consideration the law laid down in **Rajesh and Others Versus Rajbir Singh and Others, 2013 9 SCC 54**, the claimants are entitled compensation under the conventional head of future prospects. Since the deceased was got 45 years of age and was drawing salary of Rs. 6,610/- (Approx.) per month in the Semi Govt. Organization, therefore, is entitled for 30% addition on account of future prospects. The appellants-claimants are also entitled for other incidental increase/compensation i.e. loss of consortium, love and affection and funeral expenses. The Tribunal has also not awarded the compensation under these heads.

On the other hand, learned counsel for the respondent No. 3-Insurance Company has argued that the adequate compensation has already been granted to the appellants-claimants by the Tribunal, and, therefore, no case for enhancement is made out. He has further argued that after considering the age of deceased, who was 45 years of age, the multiplier adopted by the Tribunal needs to be modified as per the schedule of MACT Act, which comes to 14 instead of 16.

I have heard learned counsel for the parties.

It is not disputed that the deceased-Barmeshwar Pal, who was about 45 years of age, working in the Punjab State Cooperative Milk Fed. Corporation and was drawing salary about 6610/- (Approx.) per month. Taking his salary as Rs. 6,000/- per month and having considered the judgment rendered in **Rajesh and Others' case (supra)**, claimants are entitled for 30% addition towards future prospects. Since the deceased was 45 years of age, the Tribunal was required to apply multiplier of 14 instead of 16. In this manner, this Court finds that the appellants-claimants are entitled for compensation of Rs. 8,73,600/- (5200 x 12 x 14). Since the claimants have not been awarded incidental compensation i.e. loss of consortium, love and affection and funeral expenses, this Court also finds that appellant No. 1-claimant (widow of deceased) is entitled for a sum of Rs. 50,000/- towards loss of consortium, whereas minor sons, namely, Sradanand Pal and Devanandan Pal (appellant Nos. 2 & 3, respectively) of deceased are entitled for a sum of Rs. 25,000/- each i.e. total Rs. 50,000/- under the conventional head of love and affection. Similarly, when the Tribunal has not awarded the funeral expenses, this Court finds that the claimants-appellants are also entitled for compensation of Rs. 10,000/- towards funeral expenses as the accident took place on 07.09.2000. The compensation awarded by the Tribunal is, accordingly, modified/enhanced to the extent of Rs. 9,83,600/- (Rs. 8,73,600 + 50,000 + 25,000 + 25,000 + 10,000) instead of awarded compensation

by the Tribunal as Rs. 7,68,000/-.

Since compensation awarded by the Tribunal i.e. Rs. 7,68,000/- has already been disbursed to the claimants-appellants, therefore, they shall be entitled to get remaining enhanced amount of Rs. 2,15,600/- (Rs. 9,83,600 — 7,68,000).

The enhanced amount of compensation i.e. Rs. 2,15,600/- shall also carry interest @ 6% per annum from the date of filing of the claim petition till its realization.

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

May 16, 2017

'dk kamra'

**(HARI PAL VERMA)
JUDGE**

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No