

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

FAO No.4058 of 2001 (O&M)

Date of Decision.19.07.2017

Sajjan Kaur and others

.....Appellants

Vs

Banna Lal and others

.....Respondents

Present: Mr. Sahil Singh Chauhan, Advocate for  
Mr. Anil Shukla, Advocate  
for the appellants.

Mr. Vinod Gupta, Advocate  
for the insurance company.

**CORAM:HON'BLE MR. JUSTICE AMIT RAWAL**

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**AMIT RAWAL J.(ORAL)**

The appeal is for enhancement of compensation for death of a male aged 45 years. The deceased was boarded in a trolley attached to the tractor bearing registration No.HYM-2356 along with certain other persons. When the tractor was proceeding towards village Banni Pur, a truck bearing registration No.RJ-14/G-3875, being driven by respondent No.1- Banna Lal rashly and negligently, came from Delhi side and hit against the right side of the tractor-trolley, resulting into death of Rattan Singh and Zile Singh and injuries to others.

The claimants are widow and two sons. The deceased was stated to be earning ₹5000/- from agricultural work and by selling milk. The Tribunal while assessing the compensation took the income of the deceased as ₹1500/- per month, deducted ₹300/- towards personal expenses and adopted a multiplier of 16 to assess the loss of dependency at ₹2,30,400/-.

Learned counsel for the appellants contends that the Tribunal

wrongly assessed the income of the deceased as ₹1500/- per month when there was a specific contention that the deceased was earning ₹5000/- per month. Besides this, no amount has been provided for future prospects, loss of consortium, loss of love and affection, loss of estate and funeral expenses, thus, it is a fit case for enhancement.

On the contrary, learned counsel appearing for the insurance company submits that there is no scope for enhancement. The Tribunal has already adopted a wrong multiplier of 16 for a person aged 45 years when it should have been 14. The excess amount provided due to wrong application of multiplier will take care of the heads of compensation which are not provided, thus, urges this Court for dismissal of the appeal.

I have heard learned counsel for the parties and appraised the paper book. No doubt the Tribunal has wrongly applied the multiplier of 16 for a person aged 45 years whereas it should have been 14. But still if re-assess the compensation as per the formula prescribed by the Hon'ble Supreme Court in **Sarla Verma Vs. DTC 2009(6) SCC 121** and subsequent judgments and reduce the multiplier to 14 from 16, still the amount will cross of what has already been provided by the Tribunal.

However, as regards the increase in income as future prospects, the Hon'le Supreme Court in the ratio decidendi culled out in the judgment rendered in **Chikkamma and another Vs. Parvathama and another** passed in Civil Appeal No.3409 of 2017 decided on 28.02.2017 has refused to grant claim for future prospects with regard to self employed person, owing to the fact that the issue with regard to award of future prospects of a self-employed person is pending before a larger Bench of Hon'ble Supreme Court. The relevant paragraph 9 of the same reads as under:-

“9. Taking into account the fact that the deceased was a self employed person and also as the question with regard to award of future prospects of a self employed person is presently pending before a larger Bench of this Court and as some enhancement of compensation has already been made by us, we are of the view that in the facts of the present case, the claim for future prospects ought not to be gone into by us. The said claim, therefore, is refused.

In view of the ratio decidendi culled out by Hon'ble Supreme Court in Chikkama's case (supra), I will constrain myself to award any amount for future prospects at this stage, for, the aforementioned issue is pending adjudication before the larger Bench of Hon'ble Supreme Court. The other heads of claim are tabulated as under:-

| FATAL ACCIDENT |                                             |             |              |
|----------------|---------------------------------------------|-------------|--------------|
| Age            | 45 years                                    |             |              |
| Occupation     | Agriculture and Milk Selling                |             |              |
| Claimants      | widow and two sons                          |             |              |
|                | Heads of claim                              | Tribunal    | High Court   |
| Sl. No.        |                                             | Amount (Rs) | Amount (Rs.) |
| 1              | Income                                      | 1500        | 1500         |
| 2              | Add, % of increase                          | --          | --           |
| 3              | Less, Deduction 1/3 <sup>rd</sup>           | 1200        | 1000         |
| 4              | Multiplicand (annualized by multiplying 12) | 14,400      | 12,000       |
| 5              | Multiplier                                  | 16          | 14           |
| 6              | Loss of dependence                          | 2,30,400    | 1,68,000     |
| 7              | Medical Expenses & Transportation           |             |              |
| 8              | Loss of Consortium                          |             | 1,00,000     |
| 9              | Loss of love and affection                  |             | 1,00,000     |
| 10             | Loss to estate                              |             | 5000         |
| 11             | Funeral expenses                            |             | 25000        |
|                | Total                                       | 2,30,400    | 3,98,000     |

The total compensation payable shall be ₹3,98,000/-. The

amount in excess over what has already been provided by the Tribunal shall

also attract interest @6% from the date of filing of the appeal till the date of realization. The amount shall be distributed equally amongst the claimants.

The liability shall remain the same as fixed by the Tribunal.

The award stands modified and the appeal is allowed to the above extent.

**(AMIT RAWAL)**  
**JUDGE**

**July 19, 2017**  
Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No