

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

**FAO No. 90 of 2003 (O&M)
Date of Decision: July 21, 2017**

Krishna Devi

..Appellant(s)

Versus

Ishwar

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Monika Arora, Advocate (Amicus Curiae)
for the appellant.

Mr. D.P. Gupta, Advocate
for the insurance company.

ANITA CHAUDHRY, J.

This is the claimant's appeal seeking enhancement in the award dated 31.07.2002, passed by the Motor Accident Claims Tribunal, Panipat.

Ram Sarup met with an accident on 14.04.1997. The claim petition was filed by him. During the pendency of the petition he died on account of the injuries. His legal heirs were impleaded namely his widow, mother and five children. The Tribunal noted his age as 43 years, his income was taken as Rs.100/- per day, he was plying a Buggi (cart). The dependency was taken as Rs.2,000/- per month and with the multiplier of 14 the compensation was calculated as

Rs.3,36,000/-. A sum of Rs.10,000/- was added for funeral expenses, loss of consortium and loss of estate.

The submission on behalf of the Amicus Curiae appearing for the appellant is that the deduction should have been 1/5th considering the principles laid down in the decision of Hon'ble Supreme Court in *Sarla Verma Vs. DTC, (2009) 6 SCC 121* when there were seven dependents which included five minor children. The counsel further submits that no amount had been allowed for loss of love and affection for the children and a consolidated amount of Rs.10,000/- has been allowed on a number of heads and they should have been awarded separate amount for loss of consortium, funeral expenses and love and affection for the mother.

Considering the evidence that was led before the Court below I would not make any change with respect to the income. However, the deduction of 1/3rd was wrongly made since the dependents were 7. The dependency would be 1/5th and the amount available for the family would be Rs.2,400/- per month and the compensation would be Rs.2,400/- x 12 x 14 = Rs.4,03,200/-. The occurrence had taken place in 1997, therefore, I would add Rs.25,000/- for loss of consortium, Rs.5,000/- for funeral expenses, Rs.15,000/- for loss of love and affection to the mother, Rs.25,000/- for loss of love and affection to the minor children and Rs.25,000/- as loss of estate, which raises the total to Rs.4,98,200/-. The Tribunal had awarded Rs.3,46,000/-, which would be deducted and the remaining amount

would be payable with interest @ 6% from January 2003 till realization. The award is modified.

The appeal is partly allowed.

July 21, 2017

sunil

(ANITA CHAUDH RY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No