

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

Date of decision: 27.11.2017

FAO No.2886 of 2005 (O&M)

Baljit Kaur & another

...Appellants

Vs.

Seema Rani & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Rajesh Bhatheja, Advocate, for the appellants.

Mr. Suvir Dewan, Advocate, for respondent No.3.

RAJIV NARAIN RAINA, J. (ORAL)

1. The instant appeal is directed against the Award dated 02.01.2004 passed by the Motor Accident Claims Tribunal, Moga (for short 'the Tribunal') in a claim petition under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act') preferred by the wife and son of deceased Hoshiar Singh.

2. The victim of the accident, Hoshiar Singh, was 52 years old as per post mortem report at the time of death. The Tribunal has awarded a compensation of ₹79,500/- to the claimants on account of the death of Hoshiar Singh in an unfortunate accident, which fell on 21.10.2002.

3. It is urged on behalf of the claimants that the deceased was working as a truck driver and was earning ₹3000/- per month as salary from his employer. However, the Tribunal in absence of any authentic

documentary proof of the monthly earning of the deceased took the same as that of a casual labour and assessed at ₹1500/- per month.

4. On the contrary, Mr. Dewan submits that the Tribunal has taken care of all the heads of claim sufficiently. Thus, there is no scope for enhancement.

5. Having heard learned counsel for the parties at considerable length, I find that the Tribunal erred in applying the multiplier of 6, whereas it should have been 11 as per Second Schedule attached to Section 163-A of the Act, as the age of the deceased was 52 years. Moreover, the income assessed to the tune of ₹1500/- is also on the lower side based on guess work. The same deserves to be enhanced to ₹2500/-. Accordingly, while adopting $1/3^{\text{rd}}$ deduction towards personal expenses and adopting a multiplier of 11, the loss of dependency comes to ₹2,20,000/-. The claimants are also entitled to ₹9500/- i.e. ₹5000/- for loss of consortium; ₹2000/- towards funeral expenses & ₹2500/- for loss of estate, as per Second Schedule. In addition, the claimants are also entitled to litigation costs assessed at ₹10,000/- which must have been incurred by the claimants over the years before the Tribunal and in this Court. Thus, total works out to ₹2,39,500/-.

6. In view of the above, the instant appeal is partially allowed. The award is enhanced by ₹1,60,000/-. In addition, the amount in excess over what has already been provided by the Tribunal shall also attract interest at the rate of 7.5% p.a. from the date of filing of the claim petition till realization. The amount be calculated and deposited by the respondent - Insurance Company in the Tribunal/Executing Court within two months from the date of receipt of a certified copy of this order. On deposit, the

Tribunal would disburse the amount to the claimants without delay after due verification.

27.11.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>