

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

FAO No.1429 of 2014 (O&M)
Date of decision: March 14, 2017

Sushila Devi and others

...Appellants

Versus

Om Parkash @ Omi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Arun Yadav, Advocate for the appellants.

Mr. S.K. Biriwal, Advocate for respondent No.1.

Ms. Vandana Malhotra, Advocate for respondent No.3.

Rajan Gupta, J.(oral)

Present appeal has been preferred by the appellants dissatisfied with the compensation granted by the tribunal.

Learned counsel for the appellants submits that tribunal has erred in not granting adequate compensation under usual heads like loss of consortium, loss of love and affection as well as transportation etc.

Learned counsel for the respondent No.3 insurance company submits that adequate compensation has been awarded for the death of deceased Ishwar Singh.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It appears, accident took place on 13.05.2011, in which Ishwar Singh, husband of appellant No.1, father of appellants No.2 to 4 and son of Proforma respondents No.4 & 5 had died. Admittedly, accident was caused due to rash and negligent driving of respondent No.1, driver of the

offending vehicle i.e. truck No.HR-38P-5777. The deceased was 50 years of age at the time of his death. He was agriculturist as well as milk vendor. The tribunal had taken monthly income of the deceased as ₹6000/- i.e. Rs.72,000/- per annum and after adding ₹6000/- as annual loss of agricultural income, it assessed total income of deceased as Rs.78,000/-. Applying a cut of 1/4th for personal expenses of deceased, it assessed annual dependency of claimants upon the deceased @ ₹58,500/-. Applying multiplier of '13', it granted ₹7,64,500/- to the appellants. After adding ₹10,000/- for loss of consortium, ₹30,000/- for loss of care and guidance for children and ₹25,000/- for transportation and expenses for last rites of deceased, a total compensation of ₹8,29,500/- has been granted to the claimants. In my considered view, the tribunal has granted a meager amount for loss of consortium and loss of love and affection. So, I am of the considered view that appellants would be entitled for another sum of ₹90,000/- towards loss of consortium and ₹70,000/- towards loss of love and affection. In this way, total enhanced compensation would come to ₹1,60,000/-. The appellants would also be entitled to interest as awarded by the tribunal. Recovery rights of the insurance company shall remain intact. Appeal is allowed in these terms. Award of the tribunal is modified to this extent. Rest of the award is maintained as such.

(RAJAN GUPTA)
JUDGE

March 14, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No