

Sr. No. 213

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

FAO NO. 1215 OF 2015(O&M)

Date of decision: 11.08.2017

Santosh and others

.....Appellants

versus

Aman and others

.....Respondents

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

Present: Mr. Vikram Bali, Advocate
for the appellants.

Mr. R.C.Kapoor, Advocate
for respondent No. 3.

Rajbir Sehrawat, J.(Oral)

This is an appeal filed by the dependents of the deceased Kamar Singh for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Chandigarh(for short, 'the Tribunal') challenging the same to be insufficient.

The brief facts of this case are that on 31.01.2012, deceased Kamar Singh was going on foot alongwith his brother from Derabassi to Mubarakpur. When they reached near T-point of the Barwala near petrol pump, Dera Bassi then the offending vehicle bearing Registration No.CH-01-TC-0126 driven by respondent No. 1 in a very high speed and negligent manner hit the deceased. In the accident Kamar Singh expired. The claim petition was filed by the widow, sons and one daughter as well as mother of the deceased.

To prove their case, parties led their evidence.

After appreciating the evidence, the Tribunal assessed the

income of the deceased to be ₹1,44,000/- per annum on the basis of his income tax return. The 15% increase towards future prospects was granted in view of the judgment of the Hon'ble Supreme Court and it was calculated to be ₹9,600/-. Since the deceased was more than 50 years of age but less than 51 as per the date of birth given in the income tax return, therefore, the multiplier of 12 was applied by the Tribunal. Calculating the dependency, an amount of ₹13,82,400/- was awarded on account of loss of dependency. ₹ 1 lakh was awarded on account of loss of consortium to appellant No. 1. ₹25,000/- was awarded on account of transportation and funeral expenses. Therefore, in total an amount of ₹15,07,400/- was awarded by the Tribunal.

Assailing the award passed by the Tribunal, learned counsel for the appellants has argued that the income of the deceased has been assessed by the Tribunal at ₹1,44,000/- per annum and has been awarded 15% increase in income on account of future prospect. According to the counsel the amount of future prospect would be Rs.21,600/- per annum and not an amount of ₹9,600/- per annum as wrongly calculated by the Tribunal. Therefore, he submits that this correction be made and the compensation on account of loss of dependency be enhanced accordingly. The second submission by learned counsel for the appellant is that nothing has been granted by the Tribunal on account of loss of love and affection. He prays that in terms of judgment of the Hon'ble Supreme Court in ***Rajesh and others vs. Rajbir Singh and others, 2013(3) RCR(Civil) 170*** an amount of ₹ 1 lakh has to be awarded on this account. Further, he prays that an amount of ₹25,000/- awarded on account of transportation and funeral expenses is insufficient. Still further argument by counsel for the appellants is that nothing has been awarded on account of loss of estate. Therefore, he prays

that the compensation on account of these heads be also awarded and the amount of compensation be suitably enhanced.

After hearing learned counsel for the parties, this Court is of the view that the argument of learned counsel for the appellant appears to be correct. The 15% increase of the annual income assessed by the Tribunal at ₹1,44,000/- would be ₹21600 and not ₹9,600/- as has been written by the Tribunal. Therefore, the income of the deceased is to be enhanced from ₹1,53,600/- to ₹1,65,600/- after correcting the mistake of calculation committed by the Tribunal. The deduction of 1/4th is applied to the same and therefore, loss of annual dependency comes to ₹14,90,400/-[165600 – 41400(165600/4)=124200 x 12]. Secondly, the contention of learned counsel that compensation on account of loss of love and affection has to be awarded is also deserve to be accepted in view of the judgment of the Hon'ble Supreme Court Rajesh & others(supra). Therefore, an amount of ₹1,00,000/- is awarded on account of loss of love and affection. Further an amount of ₹25,000/- is also awarded on account of loss of estate.

Therefore, the compensation awarded to the appellants is as under:-

Sr.No.	Heads	Amount(₹)
1	Loss of Dependency	14,90,400/-
2	Loss of Love and Affection	1,00,000/-
3	Loss of Estate	25,000/-
4	Loss of Consortium	1,00,000/-
5	Expenses incurred on Transportation & Funeral Expenses	25,000/-
	Total	17,40,400/-

Hence, the total amount awarded to the appellants is enhanced to ₹17,40,400/-

The other heads except as modified above and the interest

awarded by the Tribunal are retained as such. Further the directions given by the Tribunal are also retained as such and the amount shall be paid to the claimants in the same proportions as directed by the Tribunal.

In view of the above, the appeal is allowed in the above terms and the award of the Tribunal is modified.

11th August, 2017
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned *Yes*
Whether Reportable *Yes*