

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

FAO No.3703 of 2013 (O&M)

Date of decision : 08.08.2017

Surender Singh Dahiya and others

...Appellants

Versus

Kapil Sharma and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashit Malik, Advocate for the appellant(s).

Mr. Arun Sharma, Advocate for

Mr. T.K. Joshi, Advocate for respondent No.3.

ANIL KSHETARPAL, J.

The claimants are in the appeal against the award passed by the Motor Accident Claims Tribunal, Sonipat.

The claimants are seeking enhancement of the compensation assessed by the Court on account of the wife of appellant No.1 and mother of appellant Nos.2 and 3 namely Late Smt. Meena who died on 11.11.2010. The Motor Accident Claims Tribunal, Sonipat has held that the accident took place due to rash and negligent driving of respondent Nos.1 and 4 while driving their respective vehicle.

Counsel for the appellants has submitted that Late Smt. Meena was highly educated and was selected as JBT Teacher by the Staff Selection Commission, Haryana. He has further submitted that such evidence was produced before the Motor Accident Claims Tribunal, Sonipat. However, Motor Accident Claims Tribunal, Sonipat refused to calculate the dependency on the basis of the salary payable to newly selected JBT

Teacher on the ground that deceased had not yet been appointed as JBT Teacher.

Learned counsel for the appellants by moving an application under Order 41 Rule 27 CPC has produced on file the documents to show that JBT Teachers selected alongwith deceased Meena were appointed and have started drawing total salary of ₹22,235/-. Counsel for the appellants has produced on file the record of Nirmala Rani who was selected with Late Smt. Meena.

The documents produced alongwith application for additional evidence are relevant for adjudicating upon the dispute involved in the present case. These documents would help the Court in properly assessing the income of the deceased, therefore, application under Order 41 Rule 27 CPC is allowed.

Learned counsel for the respondent(s) has submitted that the appeal filed by the Insurance Company against the aforesaid award has already been dismissed. He has submitted that once the judgment has been upheld, therefore, it should be assumed that even the compensation granted has been upheld.

In the appeal filed by the Insurance Company i.e. FAO No.4617 of 2013, the issue of compensation payable to the appellants has not been adjudicated upon. Hence, there is no force in the submission of learned counsel for the respondents.

The learned Motor Accident Claims Tribunal, Sonipat has assessed the income of the deceased at ₹7500/- per month. The learned Motor Accident Claims Tribunal, Sonipat refused to accept the salary

payable to the JBT Teacher on the ground that future is uncertain and, therefore, without appointment of Late Smt. Meena, the salary of a teacher cannot be taken into consideration.

I have heard learned counsel for both the sides and with their help gone through the documents available on the file. In my considered opinion, the reason assigned by the learned Motor Accident Claims Tribunal, Sonipat refusing to take into consideration the salary payable to the JBT Teacher is erroneous. Late Smt. Meena Rani had been selected to be appointed to the post of JBT Teacher. Even Motor Accident Claims Tribunal, Sonipat has recorded such findings but before she could be appointed, unfortunate motor vehicular accident took away her life. She was a well educated lady, therefore, she had been selected by the Staff Selection Commission for appointment as Teacher with Haryana State. But for her death, she would have been appointed. In these circumstances, learned Motor Accident Claims Tribunal, Sonipat was wrong in refusing to accept the salary to be payable to Teacher while assessing the income and dependency.

As per the certificate produced, the total monthly salary of newly appointed Teacher is ₹22,235/-. The Motor Accident Claims Tribunal, Sonipat had applied a cut of 1/3rd which is in accordance with law. Hence, after applying a cut of 1/3rd, the dependency comes to approximately ₹1,77,840/- per annum (₹14,820/- x 12). The deceased was 29 years old at the time of accident. The Court has correctly applied multiplier of 17, thus, the amount would come to ₹30,23,280/-. Since, the deceased was selected in Government service and appellants have led evidence to show that the

salary was revised to ₹35,881/- w.e.f. 01.07.2015, hence, appellants are also entitled for the future prospects to the extent of 30%, which comes to ₹39,31,284/-. The appellants are also held entitled to ₹25,000/- as funeral expenses, ₹1,00,000/- for loss of consortium and ₹1,00,000/- for love and affection. The total amount of compensation comes to ₹41,56,284/-.

Hence, there is increase of ₹31,18,784/- in the amount of compensation. Thus, the appeal filed by the appellants is accordingly allowed. The enhanced amount of ₹31,18,784/- shall also attract interest @6% p.a. from the date of filing of the petition before the Motor Accident Claims Tribunal, till the date of realization.

For facility of reference, the compensation arrived at under different heads is given in the table below:-

	MACT	HIGH COURT
Income taken	7500/- p.m.	22,235/- p.m.
+ Future prospects	NIL	+ 30% (6670.5)
	7500/-	28906/-
- 1/3 rd deduction for dependency	-2500	-9635
	5000	19271
Annual dependency	60,000/- P.A.	2,31,252/- P.A.
Multiplier = 17	10,20,000/-	39,31,284/-
+ funeral expenses	5,000/-	25,000/-
+ loss of consortium	5,000/-	1,00,000/-
+ loss of love & affection	NIL	1,00,000/-
+ loss of estate	7500/-	NIL
	10,37,500/-	41,56,284/-

08.08.2017
Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No