

**In the High Court of Punjab and Haryana at Chandigarh**

**F.A.O No. 3830 of 2014**  
**Date of Decision: 15.3.2017**

Sajna Devi and others

.....Appellants

Versus

Vijender Kumar and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Ajay Jain, Advocate  
for the appellants.

None for respondents No. 1 and 2.

Mr. Punit Jain, Advocate  
for respondent No. 3.

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**ANITA CHAUDHRY, J**

This is the claimants appeal seeking enhancement in the award dated 30.9.2013 passed by the Motor Accident Claims Tribunal, Narnaul.

Durga Parsad had gone for a morning walk on 18.9.2011 at 6.30 A.M. A vehicle driven by respondent No. 1 came from the opposite direction and struck against him. The deceased was accompanied by one of his sons. Durga Parsad was stated to be 65 years old and a soothsayer. The claimants were the widow and four married sons. The Tribunal took the age of the deceased to be 75 years as there was an admission in this regard by a witness in the cross-examination. The income was assessed as Rs. 5,000/- per month as the claimants could not establish that the deceased was earning Rs. 15,000/- per month and held only the widow to the entitlement and deducted  $\frac{1}{2}$  to calculate the dependency at Rs. 30,000/- per year and

applying the multiplier of 5, it calculated the loss to be Rs. 1,50,000/-. Besides this, a sum of Rs. 25,000/- was added as funeral expenses, Rs. 10,000/- for transportation and Rs. 1,00,000/- for loss of consortium raising the total to Rs. 2,85,000/-.

The submission on behalf of the appellants was that the deduction should have been  $\frac{1}{3}$ <sup>rd</sup> instead of 50% and the claimants were entitled to compensation for loss of love and affection for each son and some amount should have been awarded for loss of estate.

The submission on behalf of the respondent was that the Tribunal had already taken a higher income as in the event of claimants failing to prove the income, the minimum wages should have been taken which was Rs. 4643/- per month in that year. It was urged that the Tribunal had rightly rejected the claim to the sons who were in the age group of 40-50 years and false plea had been taken by the claimants that the deceased was 65 years old and Dwarka Parsad, a witness of the claimants had admitted that the deceased was 74-75 years of age.

So far as the age is concerned, the post-mortem report records the age of the deceased to be 75 years. Therefore the findings with respect to the age were correctly recorded. The claimants had failed to lead evidence with respect to the income and, therefore, a rough assessment has to be made but instead of the minimum wages, Rs. 5,000/- was taken as income. There is no appeal by the respondent. Therefore, I would not make any change. The deduction was rightly made at 50% as in the old age, there would be additional expenses on the medicines etc. The major sons were not entitled to any compensation. The finding is also affirmed. So far as the addition towards loss of love and affection to the children is concerned, they

are not entitled to any addition as it is only for the minor children. The claimants were four married sons in the age group of 40-50 years. No amount had been allowed for loss of estate, therefore, an addition of Rs. 25,000/- is made on the head of loss of estate.

The award is modified to the extent mentioned above. The sum of Rs. 25,000/- would be paid with interest at the same rate as awarded by the Tribunal. The appeal is partly allowed.

**(ANITA CHAUDHRY)**  
**JUDGE**

**March 15, 2017**

Gurpreet

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| <b>Whether speaking/reasoned</b> | <b>:</b> | <b>Yes</b> |
| <b>Whether reportable</b>        | <b>:</b> | <b>No</b>  |