

In the High Court of Punjab and Haryana at Chandigarh

F.A.O No. 4302 of 2014
Date of Decision: 02.5.2017

Shamsher Kaur @ Shero Kaur and others

.....Appellants

Versus

Surinder Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Ms. Monika Jalota, Advocate
for the appellants.

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

ANITA CHAUDHRY, J

This appeal has been filed by the claimants seeking enhancement in the award dated 5.12.2013 passed by the Motor Accident Claims Tribunal, Patiala.

Gurpreet Singh a child of 17 years had died in an accident on 12.12.2011. He was the student of 10+2. The Tribunal had taken the notional income as Rs. 15,000/- and applied a cut of 1/3rd and adopted the multiplier of 15 relying upon the case of *Nirmal Maria vs. Ram Singh, 2006(1) ACJR 376*.

The submission on behalf of the appellant was that no deduction should have been made as the income was notional and no amount has been allowed for love and affection.

The submission on the other hand was that there would be no addition when the notional income is taken as that of a child and he was not

earning and addition over the notional income cannot be made.

The Tribunal had wrongly made a deduction on the notional income. Therefore, the compensation would be Rs. 15,000/- x 14 taking the age of the parents into consideration. The amount would come to Rs. 2,10,000/-.

No addition towards future prospects could be made since notional income has been taken and the child was not earning. The Tribunal had allowed Rs. 75,000/- for future prospects. The amount allowed for future prospects shall be taken as compensation for love and affection. Therefore, I would allow Rs. 1,00,000/- on the head of love and affection for the mother and Rs. 25,000/- more for funeral expenses raising the total to Rs. 3,35,000/-. The Tribunal had awarded Rs. 2,80,000/- Therefore, the amount payable would be Rs. 55,000/-. The insurance company would pay a sum of Rs. 55,000/- to the claimants in the same ratio as was allowed by the Tribunal with interest @ 6% from June 2014 till realization.

The appeal is partly allowed.

(ANITA CHAUDHRY)
JUDGE

May 02, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No