

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

FAO No.4405 of 2014 (O&M)

Date of Decision: August 24, 2017

Nevu Das and others

...Appellants

Versus

Mukesh Kumar and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Chandandeep Singh, Advocate for
Mr.Sahil Abhi, Advocate for the appellants.

Mr.Ravinder Singh, Advocate
for respondent Nos.1 and 2.

Mr.D.K.Prajapati, Advocate
for respondent No.3 – Insurance Company.

HARINDER SINGH SIDHU, J.

This is claimants' appeal for enhancement of compensation.

For the reasons stated in Civil Misc.No.12482-CII of 2014, delay
of 76 days in filing the appeal is condoned.

Chand Kishore Dass suffered injuries in a vehicular accident,
which occurred on 27.1.2012 at 7.15 P.M. near Village Fejgarh Bus Stand
due to rash and negligent driving of truck No.PB-13F-5921, by Mukesh
Kumar – respondent No.1. The injured was shifted to Civil Hospital,
Khanna and then to PGI, Chandigarh, where he breathed his last on
8.2.2012.

Widow, minor son and the parents of the deceased filed claim petition under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Fast Track Court, Ludhiana, wherein, the Tribunal assessed the income of the deceased at Rs.5000/-, deducted 1/3rd of it towards his personal living expenses, applied the multiplier of 17 considering his age of 26 years and assessed the loss of dependency at Rs.6,80,000/-. That apart, Rs.1,00,000/-, Rs.25,000/- and Rs.34,530/- were awarded under the heads of 'loss of consortium', 'funeral expenses' and 'medical expenses'. In all, compensation of Rs.8,39,530/- along with interest was awarded to the claimants.

Feeling dissatisfied with the quantum of compensation, the claimants have filed the instant appeal.

I have heard Ld. Counsel for the parties and perused the paper-book with their assistance.

The factum of accident, involvement of the vehicle, loss of income and dependency are not in dispute.

However, there is merit in the submission of Ld. Counsel for the appellants that the Tribunal has not awarded any amount under the head of 'loss of love and affection' and it also failed to grant increase in the income towards future prospects, as settled by Hon'ble the Supreme Court in its various decisions.

Accordingly, considering the decisions of the Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr**, 2009(6) SCC 121, **Rajesh and others vs. Rajbir Singh and others**, 2013 ACJ 1403, **Reshma Kumari v. Madan Mohan**,

(2013) 9 SCC 65, Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (7) SCC 476 and Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347 etc., this Court finds that the compensation awarded by the Tribunal is on lower side and it needs to be re-assessed as under:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	<i>Income</i>	<i>Rs.5,000/-</i>
(ii)	<i>50% of above (i) to be added as future prospects (deceased aged 26 years)</i>	<i>Rs.5000+2500 = 7500/-</i>
(iii)	<i>1/3 of (ii) deducted as personal expenses of the deceased</i>	<i>Rs.7500-2500 = 5000/- per month</i>
(iv)	<i>Loss of dependency after multiplier of 17 is applied</i>	<i>Rs.5000x12x17 = 10,20,000/-</i>
(v)	<i>Loss of Love and affection (Rs.50,000/- each for mother and minor child)</i>	<i>Rs.1,00,000/-</i>
(vi)	<i>Loss of Consortium (exclusively for the widow of deceased)</i>	<i>Rs.1,00,000/-</i>
(vii)	<i>Funeral Expenses</i>	<i>Rs.25,000/-</i>
(viii)	<i>Medical Expenses</i>	<i>Rs.34,530/-</i>
	<i>Total</i>	<i>Rs.12,79,530/-</i>

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the appellants are held entitled to total compensation of Rs.12,79,530/-, that is, Rs.4,40,000/- (1279530-839530) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

The amount awarded under heads at Sr.No.(v) and (vi) `loss of

love and affection' and `loss of consortium' shall be payable to the claimants, as indicated therein. The remaining enhanced amount shall be payable to the appellants, in the same manner and proportion, as awarded by the Tribunal.

August 24, 2017

(HARINDER SINGH SIDHU)
JUDGE

gian

Whether Speaking / Reasoned	Yes / No
Whether Reportable	Yes / No