

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-9883-2014 (O&M)
Date of decision: 09.10.2017

DINESH KUMAR AND ORS. ...Appellants

Versus

SANDEEP YADAV AND ORS. ...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sandeep Verma, Advocate for
Mr. Sunil Kumar, Advocate
for the appellants.

Mr. Amrinder S. Sidhu, Advocate
for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Smt. Babita in a motor vehicular accident that took place on 05.07.2012.

The Motor Accidents Claims Tribunal, Rewari (hereinafter to be referred as 'the Tribunal') awarded compensation to the tune of Rs.21,98,600/- detailed hereunder:-

Monthly income of the deceased	Rs.16,200/-
Deduction for personal expenses	1/3 rd
Multiplier	16
Loss of dependency	Rs.1,29,600 x 16 = Rs.20,73,600/-
Loss of consortium to the spouse	Rs.1,00,000
Expenses on funeral	Rs.25,000
Total	Rs.21,98,600/-

Counsel for the claimants would urge that compensation awarded by the Tribunal both qua loss of dependency and under conventional heads needs enhancement. To bring home his contention, it is argued that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 50%. No compensation has been allowed for loss of love and affection, care and guidance for the minor children left behind by the deceased.

Counsel representing the insurance company has refuted contention of the claimants for grant of future prospects on the premise that the deceased was working in a private school, therefore, she was not a permanent employee.

I have heard counsel for the parties, perused the paper book with their assistance.

Babita was working in Basant Public School, Dhani Bhalkhi Majra. Satyapal, Principal of the school was examined and he proved appointment letter Ex.PW3/A, salary certificate Ex.PW3/C and certificate PW3/D on the basis whereof, income of the deceased has been assessed at Rs.16,200/- per month. The deceased was 31 years old and had educational qualification of B.A. B.Ed. It is difficult to accept that the deceased would have stagnated at income of Rs.16,200/- per month, had she remained alive. In the light of enunciation laid down in **Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54**, claimants are entitled to increase in income for future prospects to the extent of 50%. After extending benefit of

future prospects, loss of dependency comes to Rs.16200 x 12 x 16 + 50% thereof (for future prospects) - 1/3rd (for personal expenses) = Rs.31,10,400/-.

Compensation awarded by the Tribunal for loss of consortium and funeral expenses is affirmed. The minor claimants shall be entitled to Rs.1.5 lakh (to be shared equally) for loss of love and affection, care and guidance of their mother.

The total compensation is Rs.33,85,400/- and the additional amount is Rs.11,86,800/- (33,85,400 – 21,98,600). The additional amount shall carry interest @ 7.5% per annum from the date of petition till realization, payable to minor children in equal share, to be deposited in FDRs till they attain the age of majority or for a period of three years, whichever is later.

The appeal is partly allowed in the aforesaid terms.

09.10.2017

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No