

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

FAO No.5544 of 2017 (O&M)

Date of Decision: August 29, 2017

The New India Assurance Company Ltd.

...Appellant

Versus

Raj Bala @ Bala Devi and others

...Respondents

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

Present: Mr.Vinod Gupta, Advocate for
the appellant – Insurance Company.

HARINDER SINGH SIDHU, J.

On the death of Prem Kumar due to the injuries suffered in a vehicular accident, which occurred on 3.5.2014 at 8.30 pm in the area of Dhannasar, Police Station Rawatsar, his widow, two minor children and parents filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, wherein, the Motor Accident Claims Tribunal, Sirsa vide its award dated 17.5.2017 granted compensation of Rs.20,51,000/- along with interest.

The Tribunal assessed the income of the deceased at Rs.9000/- considering him as a driver, granted enhancement of 50% towards future prospects, deducted 1/3rd towards self living expenses of the deceased and applied multiplier of 17 taking his age as 30 years, and assessed the loss of dependency at Rs.18,36,000/-. Besides, Rs.1,00,000/-, Rs.40,000/- and Rs.75,000/- were awarded under the heads of 'loss of consortium', 'funeral expenses and transportation charges', and 'loss of love and affection' respectively.

Challenging the award, Ld. Counsel for the appellant has contended that according to the statement of widow of the deceased, he was 31 years old at the time of death, whereas, the Tribunal has wrongly assessed his age at 30 years and applied multiplier of 17 accordingly. It is argued that considering the deceased to be 31 years old, in view of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and Anr, 2009(6) SCC 121**, multiplier of 16 was required to be applied.

I have heard Ld. Counsel for the appellant and gone through the paper-book with his assistance.

The Tribunal itself in para 8 of its judgment has noted the age of the deceased as 31 years, however, while assessing the compensation, it appears that inadvertently, the age was taken as 30 years. If the age of the deceased is taken as 31 years, the multiplier is also required to be reduced to '16' from '17' in view of **Sarla Verma's case** (supra) and the amount awarded under the head of 'loss of dependency' shall be reduced by Rs.1,08,000/-.

But that may not be a ground to interfere with the award considering the fact that the Tribunal has not awarded sufficient amount for 'loss of love and affection'. In **Vimal Kanwar and others Vs. Kishore Dan and others** 2013 (7) SCC 476, Hon'ble the Supreme Court awarded Rs.2,00,000/- to the minor daughter for the loss of love and affection. In the present case, the two minor children of the deceased (a son aged eight years and daughter aged about four years) and the parents have been awarded only Rs.75000/- on account of loss of love and affection. This amount is liable to be increased. The amount that is liable to be reduced on

account of wrong multiplier having been applied (Rs.1,08,000/-) can be adjusted against the increase on account of loss of love and affection. Thereby, there will be no change in the total amount awarded.

Accordingly, the appeal is dismissed.

August 29, 2017

(**HARINDER SINGH SIDHU**)
JUDGE

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