

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.2155 of 2016 (O&M)

Date of Decision: 28.09.2018

Shinder Pal Kaur

..... Appellant

Versus

Mandeep Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Parvesh Sachdeva, Advocate
for the appellant.

Mr. Deepak Suri, Advocate
for respondent No.2-Insurance Company.

ANIL KSHETARPAL, J. (ORAL)

Claimant-widow is in the appeal seeking enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal on account of death of her husband Major Singh in a motor vehicular accident. The only issue which needs consideration is what is the appropriate and just compensation. In the present case, the Motor Accident Claims Tribunal after assessing the compensation payable at Rs.11,35,800/-, awarded only Rs.7,65,000/- by restricting it to the amount claimed in the petition. It is not disputed by learned counsel for the insurance company that the Motor Accident Claims Tribunal is entitled to award just compensation irrespective of fact that the lesser amount has been claimed in the petition filed by the claimants. Hence, to that extent, the judgment passed by Motor Accident Claims Tribunal is erroneous. The deceased was working as a driver aged about 52 years. Learned Motor Accident Claims Tribunal has

assessed the income at Rs.8,000/- per month and added 15% on account of future prospects. Once it is not proved on file that he was having a permanent job, under the head accretion on account of future prospect, 10% can be added as held by the Hon'ble Constitution Bench. The income assessed shall be reduced by 1/4th of the amount assessed on account of personal expenses. On account of non-conventional heads namely funeral expenses, loss of consortium and loss of estate, total amount of Rs.70,000/- shall be awarded to the claimants.

Keeping in view the aforesaid facts, the compensation payable to the claimants is re-worked as under:-

<i>Heads</i>	<i>Compensation awarded by MACT, Fazilka</i>	<i>Compensation awarded by High Court</i>
Income assessed	Rs.8,000/-	Rs.8,000/-
+ Future prospects	(15%) Rs.1200/- 8,000 + 1200 = Rs.9200/-	(10%) Rs.800/- 8,000 + 800 = Rs.8800/-
- 1/4 th Deduction	9200 – 2300 = 6900/-	8800 – 2200 = 6600/-
Multiplier of 11 with annual dependency	6900 X 12 X 11=9,10,800/-	6600 X 12 X11=8,71,200/-
Conventional Heads i) Loss of Estate ii) Consortium iii)Funeral expenses	NIL Rs.1,00,000/- Rs.25,000/-	Rs.15,000/- Rs.40,000/- Rs.15,000/- (Rs.70,000/-)
Loss of care and guidance for children	Rs.1,00,000/-	Nil
Total Compensation awarded	Rs.11,35,800/-	Rs.9,41,200/-

Learned Motor Accident Claims Tribunal restricted the amount to Rs.7,65,000/- but after re-calculation by this Court, the amount comes to Rs.941,200/-. Hence, the claimants are entitled to enhanced amount of Rs.1,76,200/- over and above the amount awarded by the learned Motor Accident Claims Tribunal.

The compensation shall be payable in accordance with the apportionment made by the learned MACT. The enhanced compensation shall carry interest @ 9% per annum from the date of filing of the petition till realization.

Appeal is allowed.

28.09.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No