

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

219

FAO-1724-2015

Date of Decision : August 22, 2019

SURINDER KAUR

.....Appellant

VERSUS

JAGDISH KUMAR SANDOIA AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Bawa Karan Veer, Advocate for
Mr. Vivek Suri, Advocate
for the appellant.

Mr. Amit Kundra, Advocate
for respondent No.3.

NIRMALJIT KAUR, J. (Oral)

The present appeal has been filed for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Patiala vide award dated 28.10.2014.

While praying for enhancement, learned counsel for the appellant submitted that the deceased had his own transport business and he was plying his own truck. His income was Rs.40,000/- per month but the Tribunal went on to hold his income as only Rs.3,000/- per month whereas the minimum wages of a skilled labourer at that point of time was Rs.4,031/-. Secondly the future prospects @ 10% should have been awarded taking into account that the deceased was 60 years of age.

Learned counsel for the respondent-Insurance Company while opposing the same submitted that there was no income certificate placed on record. Hence, no fault can be found with the income of the deceased as having been assessed of an unskilled labourer which was Rs.3,000/- per month. It is further stated by learned counsel for the respondent-Insurance Company that the amount awarded towards conventional heads should have been only Rs.70,000/- whereas Rs.1,25,000/- has been granted.

Heard.

There is merit in the argument of the learned counsel for the appellant that the deceased was a driver and was a skilled labourer. There is no reason to doubt the same because admittedly the deceased was himself driving the truck at that point of time. Therefore, his salary should have been assessed as a skilled labourer which was admittedly Rs.4,031/- as per the schedule at that point of time. Accordingly, the income of the deceased is required to be assessed at Rs.4,000/- while taking a round figure. There is also no dispute with the well settled proposition of law that 10% should have been awarded towards future prospects taking into account that the age of the deceased was 60 years. At the same time, the amount awarded towards conventional heads is liable to be scaled down to Rs.70,000/- instead of Rs.1,25,000/-.

In view of the above, the appellant is entitled to the enhanced amount as per the calculation provided as under:-

Sr. No.	Head	Amount assessed
1	Income	Rs.4000/- p.m. x 12 = Rs.48000/-
2	Future Prospects @ 10%	(48000 x 10% = Rs.4800) 48000+4800 = 52800/-
3	Deduction 1/3 rd	52800 x 1/3 = Rs.17600/- 52800-17600 = 35200
4	Multiplier	35200 x 9 =Rs.3,16,800/-
5	Conventional Heads	Rs.70,000/-
6	Total	Rs.3,86,800/-
7	Compensation awarded by the Tribunal	Rs.3,41,000/-
8	Differences	Rs.3,86,800 – 3,41,000 = Rs.45,800/-

Accordingly, the present appeal is allowed to the said extent.

The enhanced amount of Rs.45,800/- be deposited within two months from the receipt of certified copy of this order alongwith 6% interest from the date of the claim petition till realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

August 22, 2019
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No