

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

**FAO No.7931 of 2015 (O&M)**

**Date of decision: 24.09.2019**

Smt. Suman Devi & others

....Appellants

Versus

The Oriental Insurance Company Limited & another

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Sagar Deswal, Advocate, for the appellants.

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**RITU BAHRI J. (Oral)**

**CM No.24942-CII of 2015**

For the reasons mentioned in the application, same is allowed and delay of 135 days in filing of the appeal is condoned.

**FAO No.7931 of 2015**

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 09.03.2015, on account of death of Ramesh Kumar in a motor vehicular accident which took place on 12.03.2014. Appellant No.1 is widow and appellant Nos.2 & 3 are sons of deceased Ramesh Kumar.

Brief facts of the case are that on 12.03.2014, Ramesh Kumar (since deceased) was returning from Kala Amb towards his village Dhanani on a motorcycle bearing registration No. PB-65-P-0361. He was being followed by Rajesh Kumar and Harnam Singh on a separate motorcycle. At about 9.30 P.M., when they reached in the area of village Handesra, a tractor-trolley bearing registration No.HR-03-F-5364 and loaded with wood, was parked in the middle of the road by its driver namely Bahadur Singh-

respondent No.2 (respondent No.1 in claim petition) without any indicator, reflector or parking lights etc. Due to this reason, motorcycle of Ramesh Kumar struck against the rear portion of the offending stationary tractor-trolley, as a result of which, he (Ramesh Kumar) received multiple and grievous injuries. Ramesh Kumar was taken to Civil Hospital, Ambala City, where he was declared dead. With regard to the accident, FIR No.42 dated 13.03.2014, under Sections 283/427/304-A IPC was registered against respondent No.1-Bahadur Singh (respondent No.2 herein) at Police Station, Lalru, District SAS Nagar, Mohali. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account negligent parking of the offending vehicle by its driver and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Rajesh Kumar (PW-2), who was eye witness of the accident. Further, the claimants have proved on record copy of FIR Ex.P1, report under Section 173 Cr.P.C. Ex.P2 and postmortem report Ex.P3.

Deceased-Ramesh Kumar was a motor mechanic and had done ITI from Ambala City. The Tribunal had assessed income of deceased as Rs.9000/- per month as that of a semi skilled helper. In this income 50% addition was made on account of future prospects. In this way, total income of deceased came to Rs.13,500/- (Rs.9000 + 4500), out of which, one-third amount was deduced towards his personal expenses. Contribution of the deceased towards his family came to Rs.9000/- per month (13,500 – 4500).

As per postmortem report Ex.P3, deceased was 32 years of age at the time

of death/accident. Accordingly, multiplier of 16 was applied by the Tribunal. After applying the multiplier of 16, dependency of claimants came to Rs.17,28,000/- (9000 x 12 x 16). In addition to it, Rs.1,00,000/- were awarded to claimant No.1-wife as loss of consortium, Rs.25,000/- as funeral expenses and Rs1,00,000/- each were awarded to claimant Nos. 2 and 3 as loss of care and guidance for minor children. Hence, appellant-claimants were found entitled to total compensation of Rs.20,53,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Parties are not in dispute with respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of negligent parking of the offending vehicle by its driver.

After going through the impugned award, this Court is of the view that income of the deceased has been rightly assessed by the Tribunal as per minimum wages in the year 2014. Further, compensation under the conventional heads has also been awarded keeping in view the law prevalent at that time. In these circumstances, no modification is required to be made in the impugned award. The evidence has been appreciated in the right perspective.

Resultantly, finding no merits, present appeal is dismissed.

**(RITU BAHRI)**  
**JUDGE**

24.09.2019

AJAY PRASHER  
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I attest to the accuracy and  
integrity of this document  
ajp

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No