

CM-5054-C-II-2024 in/and RA-CR-52-2024 in FAO-5656-2016 -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.108

Case No. : CM-5054-C-II-2024 in/and
RA-CR-52-2024 in FAO-5656-2016

Date of Decision : March 20, 2024

Bitamee Devi @ Bidamee Devi and another Appellants
vs.
Babita Devi and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Amit Jaswal, Advocate
for the appellants.

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GURBIR SINGH, J. :

1. This Review Application has been filed under Order 47 Rule 1 read with Section 114 and 151 CPC for review of judgment dated 24.07.2023 passed by this Court.
2. Learned counsel for the applicants/appellants has submitted that appeal was filed against Award dated 20.07.2016, primarily on the ground that Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as – the Tribunal) did not grant any compensation to the applicants/appellants.
3. Learned counsel for the applicants/appellants has further submitted that the applicants/appellants are residents of Village Kaleera, District Sikar, Rajasthan and had no knowledge of pendency of the claim petition. This Court granted sum of Rs.38,48,637/- as compensation to all the claimants but applicant/appellant no.1 Bitamee Devi @ Bidamee Devi

Kumawat was granted sum of Rs.1,00,000/- as compensation. Respondents no.1 and 2 have been granted a sum of Rs.33,48,637/-. It has further been apprised to this Court that respondent no.1 is receiving pension from CRPF after the death of her husband and has also received other retiral dues from CRPF. Further, it has been argued that the applicants/appellants were not properly served, so, they did not lead any evidence. The old parents are always taken to be dependent upon the deceased. No consortium was granted to the applicants/appellants. This Court wrongly made deduction of 15% towards contributory negligence from the total compensation whereas the deduction should have been from the sum assessed under the head of “loss of dependency”. This is the further contention of learned counsel for the applicants/appellants that at least one-third of the compensation should have been awarded to the poor parents (applicants/appellants) of the deceased.

4. I have heard the submissions of learned counsel for the applicants/appellants and have also gone through the record of the case.

5. A bare perusal of the record shows that widow and minor son of the deceased moved petition for grant of compensation before the learned Tribunal, Chandigarh, but parents of the deceased (applicants/appellants) failed to appear despite service through registered post and hence, were proceeded against ex-parte. The Award was passed only in favour of widow and minor son of the deceased and nothing was granted to the parents of the deceased as compensation.

6. Before this Court, parents filed appeal being **FAO No. 5656 of 2016** and another appeal was filed by the widow and minor son of the

deceased i.e. **FAO No. 2183 of 2017**. By a common judgment, both the appeals have been disposed of by this Court. The relevant extract of the judgment reads as under :-

15. *Apart from what has been held in preceding paragraphs, there is nothing on the file to show that the deceased was not having any brother. So, it cannot be said that parents of the deceased were fully dependent upon the deceased. In the first appeal i.e. **FAO No.5656 of 2016**, appellant no.1 is mother of the deceased and it is duty of every son to support her mother during her old age. In the absence of any evidence, it cannot be said that she was fully dependent upon the deceased. So, the parents are entitled to some amount of compensation on account of death of their son. Accordingly, the mode of compensation shall be calculated as detailed below :-*

<u>No.</u>	<u>Head</u>	<u>Compensation Awarded</u>
01.	Monthly Income	Rs.21,853/-
02.	1/3 rd Deduction	Rs.7,284/-
03.	Net Income	Rs.14,568/-
04.	Annual Income	Rs.1,74,816/- (14,568/- x 12)
05.	Multiplier (age of deceased = 28 yrs.)	17
06.	Total Income	Rs.29,71,872/- (1,74,816/- x 17)
07.	Future Prospects @ 50%	Rs.14,85,936/- (B)
08.	Total Income for computation	Rs.44,57,808/- (A+B)
09.	Loss of Estate, Funeral, Consortium	Rs.70,000/-
10.	Total Compensation	Rs.45,27,808/-
11.	15% deduction for negligence	Rs.6,79,171/-
12.	<u>TOTAL</u>	<u>Rs.38,48,637/-</u>

7. The amount of compensation was enhanced. Mother of the deceased was granted a sum of Rs.4,00,000/- and father of the deceased was

granted Rs.1,00,000/- as compensation, out of total amount of compensation. Since the judgment has been passed keeping in view the fact that there was no evidence on file to show that there was no other brother of the deceased and parents of the deceased were fully dependent upon him. The judgment was passed keeping in view the particular fact and therefore, the same cannot be changed by way of review.

8. In view of the above discussion, there is no merit in the present Review Application, which is accordingly dismissed.
9. Pending applications, if any, shall stand disposed of along with this judgment.

March 20, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.