



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

231

FAO-4372-2017

Date of decision: 14.02.2025

SUMAN AND ORS.

..Appellants

Versus

ISHANT AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ojas Bansal, Advocate
for Mr. Sanjiv Kumar Aggarwal, Advocate
for the appellants.

Mr. Banni Thomas, Advocate
for respondent No.3-Insurance Company.

ANIL KSHETARPAL, J(Oral)

1. This is claimants appeal for modification of amount awarded by Motor Accident Claims Tribunal ('in short 'Tribunal'). The claimants are widow and two minor children of late Sh. Sikandar, who died at the young age of 30 years. The Court in absence of concrete evidence has assessed the income of the deceased at the rate of Rs.8,100/- per month. He died in the accident on 31.12.2014. Widow and a co-worker appeared in evidence. They stated that Sh. Sikandar used to run a barber shop along with certain other workers, who were working in his shop on commission basis. The appellant has examined PW-3 Sh. Rahish son of Sh. Hamid, who has stated that he worked with the deceased for six months. The second co-worker has not been examined. The appellant has tried to prove the income by producing a notebook to prove that the deceased was generating sufficient income.

2. In absence of cogent evidence, the Tribunals are faced with difficulty in assessing the income of the deceased, however, one fact is



proved that the deceased was working as a barber. He was running his own shop. He was also assisted by another workers, hence, he cannot be equated with an unskilled worker. In absence of cogent evidence, the Court is required to apply the thumb rule. The deceased was working in a city after taking the shop on rent. Hence, his income is assessed at the rate of Rs.15,000/- per month. He left behind three dependants including widow and two minor children. Hence, 1/3rd cut towards personal expenses is required to be applied. Sh. Sikandar was young man of 30 years at the time of his death. Hence, the income is required to scaled up by 40% on account of increase in the income in future.

3. The claimants shall also be entitled to loss of consortium at the rate of Rs.40,000/- each (40,000 X 3 = Rs.1,20,000/-). They shall also be entitled to Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.

Heads	Amount awarded by the Motor Accidents Claims Tribunal (MACT).	Amount awarded by the High Court
Monthly Income	Rs.8,100/-	Rs.15,000/-
Future Prospects	--	40%
Dependancy	1/3rd	1/3rd
Multiplier	17	17
Compensation after multiplier	Rs.11,01,600/-	Rs.32,13,000/-
Funeral expenses and transportation	Rs.25,000/-	Rs.15,000/-
Loss of Estate	--	15,000/-
Filial consortium	1,00,000/-	Rs.40,000 X 3= Rs.1,20,000/-

Total amount awarded (Award)	Rs.12,26,600/- @ 7.5% p.a.	Rs.33,63,000/- @ 7.5 % p.a.
Enhanced Compensation	Rs.33,63,000/- – Rs.12,26,600/- = Rs.21,36,400/-	

4. The enhanced compensation of Rs.21,36,400/- shall be payable along with the interest at the rate of 7.5% from the date of filing of the claim petition till its realization.
5. Disposed of.
6. All the pending miscellaneous applications, if any, are also disposed of.

February 14th, 2025
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(ANIL KSHETARPAL)
JUDGE

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