

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

**FAO No.4956 of 2004 (O&M)
Date of decision : 03.08.2016**

Ranbir Singh and others

.....Appellants

Versus

Buta Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Harsh Aggarwal, Advocate for appellants.

Mr. Sanjeev Pandit, Advocate for respondent No.3.

Mr. Vinod Gupta, Advocate for respondent No.4-
Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 16.09.2004, passed by the learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter called the “Tribunal”) vide which the appellants-claimants have been awarded a sum of ₹ 4,29,180/- as compensation on account of death of Manwinderjit Kaur as a result of injuries suffered by her in the motor vehicular accident, which took place on 26.04.2003.

2. The present appeal has been preferred by the appellants-claimants for enhancement of amount of compensation.

3. Learned counsel appearing for the appellants-claimants contended that the deceased was a Teacher. She was getting ₹ 12,736/- per month as salary but the learned Tribunal has wrongly excluded the

allowances while taking into consideration the salary of the deceased. He further contended that the multiplier has been wrongly applied. The deceased had five dependents but the Tribunal has wrongly deducted 1/3rd of her income towards her personal and living expenses. The learned Tribunal has also not awarded any future prospects to the income of the deceased. No amount has been awarded towards loss of love and affection to the children. Less amount has been awarded towards loss of consortium to the husband as well as for funeral expenses. Thus, he pleaded that less amount of compensation has been awarded.

4. On the other hand, learned counsel appearing for the respondent-Insurance Company contended that the compensation has been adequately awarded under all the conventional heads. Thus, he contended that there is no scope of any further enhancement in the amount of compensation.

5. I have duly considered the aforesaid contentions and found considerable substance in the contentions raised by learned counsel for the appellants-claimants.

6. As per the statement of AW3 Arvind Kumar Clerk, Govt. Senior Secondary School, Kotla Naud Singh, deceased Manvinderjit Kaur was working as S.S. Mistress in their school since 19.04.1990. He proved her salary certificate Ex.A5. As per the said salary certificate, she was getting ₹ 12,736/- per month as salary. She was drawing ₹ 7660/- as basic pay and ₹ 3983/- as dearness allowance. The learned Tribunal has taken into consideration only the basic pay and the dearness allowance of the

deceased to determine the income of the deceased. The allowance received by the deceased have been excluded. Learned counsel for the appellant contended that the deceased was also getting ₹ 460/- per month as house rent allowance. This fact has not been disputed by the learned counsel for the respondents. So, the house rent allowance is also required to be added to the salary of the deceased. In this way, the salary of the deceased shall be taken to be ₹ 12,103/- (11,643 + 460) per month. Deceased Manwinderjit Kaur was 43 years of age. So, 30% of her income shall be added towards future prospects. The total income comes to ₹ 15,733.90 per month. To make it a round figure, we can take ₹ 15,733/-. The annual income of the deceased comes to ₹ 1,88,796/- per annum. Out of that 10% has to be deducted towards income tax. The remainder comes to ₹ 1,69,916.40 (1,88,796 - 18879.60). To make it a round figure, we can take ₹ 1,69,916/-. There were five dependents, so 1/4th of the income of the deceased shall be deducted towards her personal and living expenses. The remainder comes to ₹ 1,27,437/- (1,69,916 - 42479). In view of the age of the deceased, the multiplier of 14 shall be applicable. So, the loss of dependency comes to ₹ 17,84,118/-. In addition to that appellant-claimant No.1 Ranbir Singh, the husband of deceased, shall be entitled to ₹ 1,00,000/- towards loss of consortium. All the four minor children of the deceased shall also be entitled to ₹ 2,00,000/- on account of loss of love, care and guidance of their mother. The appellants-claimants shall also be entitled to ₹ 25,000/- towards funeral expenses. The total amount of compensation payable to the claimants comes to ₹ 21,09,118/-.

7. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to ₹ 21,09,118/- from ₹ 4,29,180/- as awarded by the Tribunal. The enhanced amount of compensation be deposited with the learned Tribunal within a period of 60 days from today, failing which the appellants-claimants shall be entitled to interest @ 7.5% per annum from the date of filing the claim petition till realisation. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

03.08.2016*sunil yadav***(DARSHAN SINGH)
JUDGE****Whether speaking/reasoned : Yes/No****Whether Reportable : Yes/No**