

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

FAO-2597-2013

Date of decision: 13.1.2014

Chand Tari

...Appellant

Versus

Wazir Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Sunil Saharan, Advocate for the appellant

Mr.Vinod Gupta, Advocate
for the Insurance Company

Jitendra Chauhan, J.

1. The present appeal has been filed by the claimant-appellant, seeking enhancement of the compensation amount awarded by the learned Motor Accident Claims Tribunal, Hisar (for short 'the Tribunal'), vide award dated 7.11.2012, on account of death of Rakesh Kumar , in a motor vehicular accident.

2. Learned counsel for the appellants submits that the learned Tribunal committed a grave error while applying the multiplier. The Tribunal applied the multiplier according to the age of the mother of the deceased, whereas the same should have been applied according to the age of the deceased in view of the law laid down by the Hon'ble Supreme Court in **Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. and others 2012 (4) RCR (Civil) 343.** He further submits that the

amount awarded towards funeral expenses and loss of love affection is also on the lower side.

3. On the other hand, the learned counsel for the respondent-Insurance Company states that just and appropriate compensation has been awarded by the learned Tribunal. Therefore, the present appeal deserves to be dismissed.

4. I have heard the learned counsel for the parties and perused the record carefully.

5. It is not disputed that the death of Rakesh Kumar occurred due to the injuries suffered by him in a road accident on 22.6.2011. As per postmortem report Ex.P-2, the deceased was 25 years of age at the time of death. In **Amrit Bhanu Shali and others' case (supra)** in para 17 the Hon'ble Supreme Court has observed as under:-

“17. The selection of multiplier is based on the age of the deceased and not on the basis of the age of dependent. There may be a number of dependents of the deceased whose age may be different and, therefore, the age of the dependents has no nexus with the computation of compensation.”

6. In the present case, the deceased was 25 years of age at the time of occurrence. Taking in to consideration the age of the deceased, in view of **Sarla Verma vs. DTC 2009 ACJ 1298 (SC)**, the multiplier of 18 should be applied.

7. From the perusal of the award, it emerges that the amount awarded towards funeral expenses and loss of affection is also on the lower side. Therefore, the amount awarded towards funeral expenses is

enhanced from Rs.5000/- to 25,000/- and loss of love and affection is also enhanced from Rs.10000/- to Rs.50,000/-.

8. Accordingly, the total compensation comes to Rs.8,90,000/- (5000 (monthly income) + 50% (future prospects) x 1/2 (dependency) x 12 x 18 (multiplier) + 50,000/- (loss of love and affection etc.) + 25,000/- (funeral expenses) + 5000/- (loss of estate already given). The balance enhanced amount i.e.Rs.2,40,000/- (8,90,000 -6,50,000 already awarded by the Tribunal) shall be paid to the claimant-appellant, within 45 days from the date of the receipt of the certified copy of the judgment, failing which, the appellants shall be entitled to get interest @ 8% per annum from the date of the filing of the appeal till its realisation.

9. In view of the above, the present appeal is partly allowed and the impugned Award is modified to the above extent.

13.1.2014
gsv

(JITENDRA CHAUHAN)
JUDGE