

**(1980) 02 P&H CK 0006**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** F.A.F.O. No's. 82 and 83 of 1974

Commonwealth Assurance  
Company Ltd. now merged in  
New India Assurance Co. Ltd.

APPELLANT

Vs

Vishan Devi and Others

RESPONDENT

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**Date of Decision:** Feb. 7, 1980

**Citation:** (1981) ACJ 7

**Hon'ble Judges:** M.R. Sharma, J

**Bench:** Single Bench

**Advocate:** R.K. Mittal, for the Appellant; L.M. Suri, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

M.R. Sharon, J.

Multani Ram deceased was involved in an accident with a scooter. The accident took place at about 5.30 p.m. on August 25, 1971, at Chandigarh. His wife, two sons and three daughters filed a claim petition which was disposed of by the learned Motor Accidents Claims Tribunal, Chandigarh. The learned Tribunal held that the scooter driver was negligent in driving his vehicle. The deceased was 48 years old at the time of this accident and was found to be earning Rs. 4,000/- per annum. The learned Tribunal fixed the annual dependency value at Rs. 2,000/- on the ground that the deceased was working in Chandigarh and his family was staying at Rajpura. On this basis, he allowed a multiple of twelve for assessing the compensation and allowed Rs. 6,000/- for loss of love and affection. The insurance company in F.A.O. No. 83 of 1974 has come up in appeal before me with a prayer that the compensation awarded to the claimants should be suitably reduced, whereas the claimants have filed F.A.O. No. 82 of 1974 praying that the amount of compensation be enhanced to Rs. 4,00,000/-. This judgment will dispose of both of them.

2. There is some controversy on the point whether any compensation for the loss of love and affection can be allowed or not. However, after coming to the conclusion

that the deceased was earning Rs. 4,000/- per annum, the learned Tribunal should have allowed a rebate of only 1/3rd of this amount as the amount spent by the deceased on his own upkeep for determining the annual dependency value of the claimants. Further, since the life of the deceased had been cut short by 22 years at least a multiple of 13 or 14 of the annual dependency value should have been allowed. If the compensation is worked out on this basis, it would almost come to the same figure even if the compensation amount awarded for loss of love and affection is excluded. In the net result, the insurance company cannot criticize the quantum of compensation awarded to the claimants of the deceased.

3. Mr. Suri, the learned Counsel for the insurance company tried to argue that the owner of the vehicle and the claimants acted in collusion with each other or which resulted in the award of such a heavy amount, the liability for the payment of which fell on the shoulders of the insurance company. The learned Counsel for the Appellant drew my attention to Vanguard Ins. Co. Ltd. New Delhi v. Rabinder Kauf and Ors. in which a learned Single Judge of this Court held that since the plea regarding the collusion was not raised before the learned Tribunal, the same should not be allowed at the appellate stage. I am bound to follow this view with respect. The second contention raised by Mr. Suri is, therefore, negatived.

4. For reasons aforementioned, I see no force in these appeals and dismiss the same.