

**(2014) 05 P&H CK 0290**

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

**Case No:** FAO No. 4622 of 2011

Smt. Sonu and Others

APPELLANT

Vs

Kaptan Singh and Others

RESPONDENT

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**Date of Decision:** May 27, 2014

**Hon'ble Judges:** Kuldip Singh, J

**Bench:** Single Bench

**Advocate:** Rakesh Dhiman, Advocate for the Appellant; Neeraj Khanna for Mr. Ravinder Arora, Advocate and Mr. R.S. Sharma, Advocate for Insurance Company, Advocate for the Respondent

**Final Decision:** Allowed

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### **Judgement**

Kuldip Singh, J.

Claimants have filed this appeal against the award dated 17.11.2010 passed by Motor Accident Claims Tribunal, Gurgaon (for short "the Tribunal") vide which compensation of Rs. 6,63,000/- was awarded to the claimants alongwith interest @ 6% p.a. from the date of filing of claim petition till its payment.

2. Puran Singh, deceased aged about 28 years, died on 12.3.2010 as a result of the motor vehicular accident which took place with the dumper bearing registration No. HR-46B-4643, being driven by respondent No. 1 rashly and negligently. Claimants are the widow, two minor children and parents of the deceased.

3. After recording the evidence, the Tribunal came to the conclusion that proved income of the deceased is Rs. 4800/- p.m. out of which 1/4th was deducted as personal expenses. Multiplier of 15 was applied and annual dependency of the claimants was assessed @ Rs. 43,200/-. Rs. 10,000/- on account of transportation of dead body and funeral of the deceased and Rs. 5000/- for loss of consortium were allowed.

4. I have heard learned counsel for the parties and have also gone through the case file carefully.

5. Learned counsel for the appellants has failed to show any material which could prove that the deceased was having higher income than assessed by the Tribunal. Therefore, income assessed by the Tribunal is to be taken into consideration for assessing the dependency of the claimants. The Tribunal has not added the future prospects, therefore, keeping in view the age of the deceased, 50% of the income i.e. Rs. 2400/- are added as future prospects. Total income of the deceased comes to Rs. 7200/- p.m. out of which 1/4th i.e. Rs. 1800/- are deducted as personal expenses. Thus, the dependency of the claimants comes to Rs. 5400/- p.m. As per the school leaving certificate, date of birth of the deceased was 5.7.1981 whereas as per his driving license, his date of birth was 2.3.1979. I am of the view that school leaving certificate is more credible than the driving license to determine the date of birth of the deceased. As such, the age of the deceased at the time of death was 29 years. In these circumstances, multiplier of 17 is to be applied. Therefore, the amount of compensation comes to Rs.  $5400 \times 12 \times 17 =$  Rs. 11,01,600/-. Rs. One lac on account of loss of consortium to the widow, Rs. One lac each on account of loss of love and affection to the minor children and the parents and another sum of Rs. 25,000/- on account of funeral expenses and last rites are also allowed to the claimants. Total amount of compensation comes to Rs. 14,26,600/-. The Tribunal awarded interest @ 6% p.a. which in my view is not in tune with the bank rate. Therefore, the compensation amount shall be paid to the claimants with interest @ 7.5% p.a. from the date of filing of claim petition till realisation. The Tribunal has already held that respondent No. 3, being the insurer of the offending vehicle shall be liable to pay the compensation. Amongst the claimants, 50% of the compensation shall go to Smt. Sonu, widow of the deceased who has to bring up the minor children of the tender age of 5 and 2 years respectively as on the date of filing of claim petition. Rs. 1,50,000/- each shall go to the father and mother of the deceased and the remaining amount shall be equally shared between claimants No. 2 and 3 minors. The compensation amount in favour of minors shall be deposited in nationalised bank by way of FDRs and shall be paid to them on becoming major for which their date of birth shall be recorded in the FDRs and the amount will be disbursed to them without any further orders from the court. The compensation of the share of the remaining claimants shall be disbursed to them by the Tribunal by depositing the same in their bank accounts to be furnished before the Tribunal.

6. The appeal is accordingly allowed.