

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

FAO-4056-2011 (O&M)

Date of decision: 27.01.2014

Kusum Lata

...Appellant

Versus

Sewak Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajesh Bansal, Advocate,
for the appellant.

Mr. Ankit Aggarwal, Advocate,
for Mr. Anupam Singla, Advocate,
for respondent Nos.2 and 2A.

JITENDRA CHAUHAN, J.

This is claimant's appeal challenging the impugned award dated 19.03.2011, passed by the learned Motor Accident Claims Tribunal, Jind, (for short, 'the Tribunal'), seeking enhancement of compensation awarded on account of the death of Satyawar, in a motor vehicular accident.

The learned counsel for the appellant cites ***Oriental Insurance Company Ltd. Vs. Saroj Devi and others, 2012(1) PLR 761***, to contend that the learned Tribunal erred in awarding lump

sum compensation of Rs.1,00,000/-, on the ground that no monetary loss was caused to the claimant.

Heard.

This Court, in Saroj Devi's case (supra) has held as under:-

“Every law framed by the State has an ‘Object’ attached to it because law is never created in vacuum. In order to achieve a particular Object, a reasoning or justification is required as to why the ‘Object’ is sought to be achieved. I believe that the scheme of compassionate assistance is in recognition of the services already put in the discharge of the affairs of the government and a further recognition that the deceased would have continued to perform his services diligently but for his demise. I am even inclined to hold that the compassionate assistance coming from the State is itself a form of deferred wage, which the deceased employee has earned by putting in his labour and effort in the service of the State. I, therefore, hold that financial assistance under the Compassionate Assistance Rules and the compensation as assessed under the relevant provisions of Motor Vehicles Act are mutually exclusive and have no reciprocal bearing on

the quantum as arrived at under the respective heads. Accordingly, I hold that the Insurance Companies are liable under the terms of their contract with the insured, independent of the financial assistance as received under State compassionate assistance policy, to pay the compensation as assessed by the learned Tribunals under Section 166 or 163 A of the Motor Vehicles Act, except to the extent worked out in accordance with the formulae as detailed hereinabove.”

The matter was later on referred to Hon'ble the First D.B. of this Court in ***Reliance General Insurance Company Limited Vs. Purnima and others, 2013(2) R.C.R. (Civil) 42***, whereby the view taken by this Court was affirmed and it was held as under:-

“14. We, accordingly, hold that view taken in Saroj Devi's case (supra) is correct in law. Accordingly, the Insurance Companies shall not be entitled to the deduction of the amount given to the dependents under the Rules of 2006 while calculating compensation payable under the Motor Vehicles Act.”

Therefore, in the instant case, the compensation to be

awarded to the claimant should have been calculated in the view of the law laid down in Saroj Devi's case (supra). Accordingly, the amount of Rs.1,00,000/- awarded by the learned Tribunal is set aside.

As per the salary certificate of the deceased, Ex.P3, the deceased was getting total salary of Rs.19,983/- per month. He was aged 33 years. Therefore, as per Saroj Devi's case, the compensation to which the claimant would be entitled, is as under:-

Monthly income (in Rupees)	Actual age of the deceased	Notional age (Actual age of the deceased + the number of years of full last drawn salary as per compassionate Rules)	Increase in future Income as per Sarla Verma	Annual Dependency	Multiplier as per Salra Verma (to be broken into two parts if multiplier spills over the age of 58 years. Before + after superannuation	Compensation for full salary period i.e. upto 58 years (rounded off)	Compensation for pension period i.e. after 58 years (rounded off)	Total compensation : Column 8 + Column 9
19,983	33	33+15=48	30% (25978)	2/3 (17,319) X 12 = 2,07,828	13 (10+3)	20,78,280	6,23,484	27,01,764

In view of the above, the claimant-appellant shall be entitled to Rs.27,01,764/- towards the head 'loss of dependency'. Another amount of Rs.1,00,000/- is awarded to the claimant on account of 'loss of consortium' and Rs.25,000/-, for 'funeral and last rites expenses', as per the law laid down by Hon'ble the Apex Court in **Rajesh Vs. Rajbir, 2013(3) R.C.R. (Civil) 170**. She shall also be entitled to an amount of Rs.1,00,000/-, on account of 'loss of love and affection'.

In view of the above, the claimant-appellant is held

entitled to the enhanced compensation of Rs.29,26,764/- [(Rs.27,01,764/- (towards loss of dependency) + Rs.1,00,000/- (towards 'loss of consortium' to be paid to the wife of the deceased) + Rs.25,000/- (towards funeral and last rites) + Rs.1,00,000 (towards loss of love and affection to the wife of the deceased)] as indicated above, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, in the same terms as indicated by the learned Tribunal, failing which, they shall also be entitled to interest as indicated in the award i.e. 7.5% per annum, from the date of filing the present appeal, till its realization.

The co-claimant, mother of the deceased, Anguri Devi, has not preferred any appeal before this Court. As the compensation amount of Rs.1,00,000/- awarded by the learned Tribunal to the claimants, out of which Anguri Devi, was entitled to Rs.50,000/-, has been set aside, it is ordered that out of the compensation amount of Rs.29,26,764/-, awarded by this Court, the co-claimant, Anguri Devi, shall be entitled to an amount of Rs.1,00,000/-.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

27.01.2014

atulsethi

(JITENDRA CHAUHAN)

JUDGE