**(1994) 03 P&H CK 0008**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Letter Patent Appeal No. 28 of 1983

Smt. Shakuntla Devi and Others — APPELLANT

Vs

Haryana Roadways and Others — RESPONDENT

**Date of Decision :** 29-03-1994

**Acts Referred:**
Motor Vehicles Act, 1939 — Section 110A

**Citation :** (1996) ACJ 264 : (1994) 107 PLR 443

**Hon'ble Judges :** N.K. Kapoor, J;G.C. Garg, J

**Bench :** Division Bench

**Advocate :** S.D. Bansal, for the Appellant; Jagdev Sharma, Addl. A.G., for the Respondent

**Final Decision :** Dismissed

## Judgement

G.C. Garg, J.—The only relief claimed in this Letters Patent Appeal, directed against the order dated August 17, 1982 of the learned Single Judge, is to the grant of higher compensation. The claimant-appellants were awarded a sum of Rs. 1,63,400/- by the Motor Accidents Claims Tribunal. It was reduced to Rs. 1,08,000/- by the order under appeal.

2. Dr. Brijendra Singh was aged about 29 years and three months at the lime of his death. He was travelling in Haryana Roadways Bus bearing No. HRA-1267 on June, 1971. The said bus hit the side on the bridge of the Mohri Nullah near Ambala and then fell into the river bed, thereby injuring several passengers. Dr. Brijendra Singh died at the spot. Appellants and two others filed claim petition under the Motor Vehicles Act, being the dependents of said Brijendra Singh. The Motor Accidents Claims Tribunal after appraisal of evidence led before it came to the conclusion that the deceased was drawing Rs. 536/- per month as his emoluments, he having been employed in the Department of Animal Husbandary, Rajasthan. The Tribunal determined the longevity of life at 70 years and assessed his average emoluments at Rs. 600/- per month. After taking that the deceased must be spending l/4th of his earnings i.e. 150/- on behalf, the dependency of

the claimants was taken at Rs. 450/- per month. The Tribunal seems to have applied a multiplier of 26 and ultimately awarded a total sum of Rs. 1,63,400/-as compensation including Rs. 5,000/- u/s 2 of the Fatal Accidents Act.

3. In appeal preferred by the Haryana Roadways and the State of Haryana, learned Single Judge reduced the amount of compensation to Rs. 1,08,000/-. While doing so, learned Single Judge relied upon the principles laid down in Lachhman Singh v. Gurmit Kaur (1979) 81 PLR 1 (F.B.) and a Division Bench judgment in Asha Rani v. Union of India (1982) 84 PLR 486. It is how the claimant-appellants have filed the present appeal.

4. Learned counsel for the appellants contended that the learned Single Judge after observing "There was thus reasonable prospect of the deceased improving his financial position by getting higher salary. It is also noteworthy that in view of his qualifications, he was expected to earn some amount after his retirement.", has erred in assessing the loss to the appellants at Rs. 450/- per month. On these premises, it was argued by the learned counsel that reduction, in the amount of compensation as awarded by the learned Motor Accidents Claims Tribunal was not called for and the appellants were entitled, if not more, to that amount of compensation.

5. In order to assess damages, the Courts take into account the life expectancy of the deceased and the dependents, the amount the deceased would have earned during the remainder of his life, the amount he would have contributed to the dependents during that period and the chances that the deceased might have got better employment and thus earned more so that just and fair amount is awarded to the claimants. This is what precisely has been done by the learned Single Judge. The deceased in this case was earning Rs. 536/- per month at the time of his death. After deducting 1/3rd of the earnings which the deceased have been spending on himself, the dependency at this amount would have come to about Rs. 359/- per month, but the learned Single Judge evaluated the dependency at Rs. 450/- per month. Thus the learned Single Judge took into consideration the qualifications of the deceased and thereby his capacity to earn more in future while evaluating the dependency at Rs. 450/- per month. In other words, the earning capacity of the deceased at the time of his death was taken to be about Rs. 675/- per month.

6. Faced with the above, learned counsel submitted that in the facts of this case, multiplier higher than 20 ought to have been applied. Again, we find no merit in this contention. In Asha Rani''s case (supra) it was held that the normal multiplier is 16 which in some cases may be taken to be 20 in order to provide a just and fair compensation to the dependants. Having regard to the qualifications and the age of the deceased, the ages of the dependants and that the deceased would have retired at the age of 58 years; the learned Single Judge has rightly applied a multiplier of 20 and no interference in that behalf is called for. A reference to Jyotsna Dey and Ors. v. The State of Assam (1987) 91 PLR 646, by the learned counsel for the appellants, does not help him. In that case, a

multiplier of 25 was applied but after arriving at a figure, it was slashed by 20% in consideration of lump sum payment and uncertainties of life.

7. For the aforesaid reasons, the appeals fails and is dismissed but with no order as to costs.