208 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 5043 of 2004.
Decided on: 7.5.2015.

Sarla Kumari and others

... Appellants

Versus

Krishan Kumar and others

... Respondents

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. R.S. Chahal, Advocate for
Mr. Arjun Lakhanpal, Advocate,
for the appellants.

Ms. Shamsher Kaur, Advocate,
for respondent No.4.

K.C.PURI.J.(ORAL)

The paper book has been supplied. It be taken on record.

This is an appeal directed by the claimants against the Award dated 29.7.2004 passed by Sh. M.P. Mehndiratta, Presiding Officer, Motor Accident Claims Tribunal, Jind (for short "the Tribunal") vide which the claim petition was partly accepted and a sum of Rs.4,60,740/- was allowed and respondents No.1, 2 and 4 were jointly and severally held liable to pay the amount of compensation.

The claimants have directed this appeal for enhancement.

The salary of the deceased was Rs.4692/- per month as he was working as Sewadar in I.T.I., Narwana. His carry home salary was Rs.3702/- per month. 1/3rd amount was deducted in respect of personal expenses and the dependency of the claimants was taken as Rs.2468/- per month and annual dependency has been taken as Rs.29,616/-. The age of the deceased was 35 years and multiplier of 15 was applied. In this manner, the amount of compensation was calculated as Rs.4,44,240/-. A sum of Rs.16,500/- was spent on treatment. So, by adding that amount, the amount of Rs.4,60,740/- was allowed along with interest @ 9% per annum from the date of petition till realization of payment.

Learned counsel for the appellants has submitted that no amount in respect of future prospects has been allowed by the Tribunal. He has further contended that no amount in respect of expenses on last rites and transportation of body, loss of love and affection and on account of consortium has been allowed by the Tribunal. He has relied upon authority **Rajesh and others vs. Rajbir Singh and others 2013 ACJ 1403.**

Learned counsel for the respondent No.4 has submitted that future prospects cannot be given in view of the fact that deceased was not a permanent employee and the matter has been referred to larger Bench of the Hon'ble Supreme Court in **National Insurance Co. Ltd. vs. Pushpa and others (SLP No.8058 of 2014 decided on 2.7.2014).** Authority **Rajesh and others vs. Rajbir Singh**

and others 2013 ACJ 1403 cannot be made applicable as the matter is still pending before the Hon'ble Apex Court.

I have considered the said submissions made by both the parties.

The point regarding grant of future prospects in respect of self employed person and fixed salaried person has been considered by this Court in authority **Balbir Kaur and others vs. State of Haryana and others (FAO No.3903 of 2012 decided on January 15th, 2014)** and the ratio of judgment in **Rajesh's case (supra)** has been followed by this Court in the said case. So, in these circumstances, I have no hesitation in holding that claimants are also entitled to claim amount in respect of future prospects of deceased.

However, from the record, it is revealed that the deceased was a government employee and the learned Tribunal has wrongly taken the salary of the deceased as Rs.3702/- per month. So, income of the deceased is taken as Rs.4692/- per month. Since the deceased was a government employee aged about 35 years and as such 50% in respect of future prospects should have been taken into consideration for calculating the income. So, by adding 50% in respect of future prospects, income of the deceased can be taken as Rs.7038/-. In this case, the claimants are six in number and even if the brothers are ignored then the claimants are four in number and as such the dependency should have been calculated by deducting 1/4th in respect of personal expenses of the deceased. So, the dependency by deducting 1/4th comes to Rs.5279/-. The yearly dependency comes to Rs.63,348/-. The deceased was 35 years old and as such, the multiplier applicable at the age of 35 years is 16. So, by applying that multiplier, the amount of compensation comes to Rs.10,13,568/-. The learned Tribunal has allowed an amount of Rs.16,500/- in respect of actual expenses on treatment of the deceased. So, that amount is maintained. Another sum of Rs.15,000/- stands allowed in respect of last rites and transportation. The widow claimant is held entitled to claim Rs.50,000/- in respect of consortium and the remaining claimants are held entitled to claim Rs.50,000/- in respect of loss of love and affection. These amounts have been allowed keeping in view the price index prevailing in the year 2004. So, in this manner, the claimants are held entitled to claim Rs.11,45,068/-.

Out of the enhanced amount, Rs.3 lacs shall be paid to the widow and the remaining amount shall be paid to the remaining claimants in equal shares. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the amount shall be the same as ordered by the Tribunal. The share of the minor shall be deposited in the shape of FDR in such a manner that minor will get maximum rate of interest. The said amount be deposited in some nationalized bank.

7.5.2015. **(K.C.PURI)**
SN **JUDGE**