

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

**FAO No.1229 of 2007 (O&M)
Date of decision: 27.03.2015**

Saroj and others

....Appellants

Versus

Veer Pal Singh and others

....Respondents

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

Present: Mr. Gaurav Gaur, Advocate
for Mr. S.M. Sharma, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for the insurance company.

K.C. PURI J. (Oral)

This is an appeal directed by widow and two daughters
of Mahipal, who died in a motor vehicular accident.

The learned Tribunal after adjudication, accepted the
claim petition partly and granted a sum of Rs.3,30,000/-. The age
of the deceased was found to be 30 years. The income of the
deceased has been taken as Rs.2500/- per month, 1/3rd has been
deducted in respect of personal expenses and multiplier of 16 has
been applied. The claimant have challenged the award in respect
of enhancement.

Learned counsel for the appellant has submitted that no future prospects has been considered while granting the amount of compensation. No amount has been granted in respect of loss of consortium and loss of love and affection. The amount of Rs.10,000/-, granted in respect of funeral expenses and transportation are on lower side. Learned counsel for the appellant has relied upon the authority of this Court in **FAO No.526-527 of 1995 (O&M)** titled as "**Smt. Anjana and others vs. Gurpal Singh and others**" and "**Mohinder Kumar vs. Gurpal Singh and others**" decided on 19.02.2014, whereas the learned counsel for the respondent has submitted that amount has to be calculated in accordance with "**Smt. Sarla Verma and others vs. Delhi Transport Corporation and another**" reported in **2009(3) R.C.R. (Civil) 77**, as held by Hon'ble Apex Court in Civil Appeal No.201 of 2015, arising out of the SLP-C No.7480 of 2014, decided on 09.01.2015.

I have considered the submissions made by both the learned counsel for the parties and have gone through the case file as well as the record of the case.

The income of the deceased has been taken as Rs.2500/- per month as un-skilled labourer on brick kiln. No challenge to the income has been made by any of the party during the course of arguments.

The next point for determination is whether future prospects has to be considered regarding the death of Mahipal. The answer to that question has been given in affirmative by Hon'ble Apex Court in authority **“Rajesh and others Vs. Rajbir Singh and others”** reported in **2013(3) R.C.R. (Civil) 170** and by this Court in **"Balbir Kaur Vs. State of Haryana and others"** **FAO No.3903 of 2012** decided on 15.01.2014. In Balbir Kaur's case (supra) this Court has held that authority Rajesh and Rajbir's case (supra) is applicable. The ratio of authority Rajesh's case (supra) is that the self-employed person and fix salaried person are entitled for future prospects regarding grant of compensation. Even in FAO No.526-527 of 1995, relied upon by learned counsel for the appellant, the said proposition has been accepted. So I have no hesitation in holding that claimants are entitled to compensation by keeping in view the future prospects of Mahipal. The deceased was 30 years and as per ratio of Rajesh's case (supra) 50% increase has to be given in respect of future prospects. So, the income of the deceased can be taken as Rs.3750/- per month by taking into account the future prospects amounting to Rs.1250/- i.e. 50% of the income of Rs.2500/-. The dependents are three in number. So, 1/3rd has to be deducted in respect of personal expenses of the deceased, so the monthly dependency comes to Rs.2500/-. The yearly dependency comes to Rs.30,000/- (2500 x 12).

Learned counsel for the insurance company has relied

upon **“Shanta w/o Shiv Anand Genani and others vs. Mohan Maruti Ingale and another”** in **Civil Appeal No.201 of 2015**, in which it has been held that the decision has to be taken in accordance with Sarla Verma's case (supra).

So, by applying the ratio of that judgment, the multiplier applicable at the age of 30 years is 17. So by applying the multiplier of 17, the claimants are held entitled to claim Rs.5,10,000/- (30,000 x 17) as compensation in respect of death of Mahipal. The learned Tribunal has allowed Rs.10,000/- in respect of funeral expenses. So, that amount stands enhanced to Rs.15,000/- instead of Rs.10,000/-, awarded by the learned Tribunal by keeping in view the price index of 2004. Another sum of Rs.50,000/- stands allowed in respect of loss of consortium. Further, claimants are also held entitled to claim Rs.50,000/- in respect of loss of love and affection. So, the claimants are held entitled to claim Rs.6,25,000/-. The enhanced amount of Rs.2,95,000/- shall carry interest at the rate of 7.5% per annum from the date of application till payment. The liability to pay the amount shall be same as ordered by the learned Tribunal. Out of the amount of Rs.2,95,000/-, an amount of Rs.1,45,000/- shall be paid to the widow and remaining Rs.1,50,000/- shall be shared equally by the minors and the amount of minors shall be deposited in the shape of FDRs in a nationalized bank, in such a manner that the minor will get maximum interest.

Appeal stands disposed of, accordingly.

A copy of this order be sent to learned Tribunal for compliance.

(K.C. PURI)
JUDGE

25.03.2015
yakub