

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 4397 of 2008
Date of Decision:- 09.04.2015

Sunita Rani and others

.....Appellants

Versus

Sajjan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest? Yes

Present: Mr. Anurag Chopra, Advocate,
for the appellants.

Mr. N.K. Bibyan, Advocate
for Mr. Ashwani Talwar, Advocate
for respondent No.3-Insurance Company.

SHEKHER DHAWAN, J (Oral).

Claimants have filed the present appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Bhiwani (hereinafter to be referred as 'the Tribunal').

2. Taking the case from undisputed facts that Mukesh Kumar (since deceased) met with motor vehicle accident on 14.06.2005, as he

was going on scooter bearing registration No.HR-18-2776 and the said scooter struck against canter bearing registration No.HR-55-1256. He was taken to the hospital and subsequently died because of the injuries caused in the accident. Mukesh Kumar was of the age of 29 years and was running a medical store at Badhra. The Tribunal assessed the amount of compensation to be ₹3,14,200/-. Claimants being dissatisfied with the awarded amount are in appeal before this Court. Respondents contested the claim petition on all accounts.

3. Mr. Anurag Chopra, Advocate, learned counsel for the appellants urged that the Tribunal has not taken the income of the deceased keeping in view the facts that Mukesh Kumar was running a chemist shop and his income was taken to be ₹2500/- per month only, which was on lower side. More so, nothing has been awarded on account of future prospects of earnings though he was of the age of 29 years and survived by widow, minor children and aged parents. The Tribunal has also not awarded adequate amount on account of loss of consortium though one of the claimant is widow and meager amount has been awarded on account of funeral expenses and transportation charges. So, the awarded amount be enhanced suitably. Learned counsel for the appellants also took the plea that even correct multiplier has not been supplied, while awarding the amount of compensation.

4. Mr. N.K. Bibyan, Advocate, learned counsel for respondent No.3-Insurance Company, took the plea that the Tribunal has already awarded just compensation.

5. Having considered the rival contentions raised by learned

counsel for both the parties, this Court is of the considered view that the Tribunal has taken the income of the deceased correctly keeping in view the material and evidence available on file. However, the Tribunal has not awarded any amount on account of loss of income by way of future prospects of earnings though Mukesh Kumar was just of the age of 29 years and he had bright future ahead. As per judgments from Hon'ble Supreme Court in cases **Sarla Verma and others Vs. Delhi Transport Corporation and another**, 2009(3) RCR (Civil) 77 and **Rajesh and others vs. Rajbir Singh and others**, 2013(9) SCC 54, 50% is to be added on account of loss of future earnings, as the deceased was just of the age of 29 years. That way, the total monthly income comes to ₹3,750/- (₹2,500/- + ₹1,250/-) and annual loss of income comes to ₹45,000/- (₹3,750 x 12). As there were four claimants including the widow, minor children and aged parents, 1/4th is to be deducted on account of self dependency and after taking 1/4th on account of self dependency the annual loss of income comes to ₹33,750/-, as per the judgment from Hon'ble Supreme Court in **Sarla Verma and others Vs. Delhi Transport Corporation and another** (case supra). Multiplier of 17 to be applied at the group of age of 29 years and applying the same multiplier, the amount of compensation comes to ₹5,73,750/-. The amount of compensation on account of loss of consortium is to be taken ₹50,000/- in this case, as one of the claimant is widow and another sum of ₹20,000/- awarded on account of funeral expenses and transportation charges. The total amount comes to ₹6,43,750/- (₹5,73,750/- + ₹50,000/-

+ ₹20000/-). The total awarded amount of compensation in this case shall be ₹6,43,750/- against the awarded amount of ₹3,14,200/-. The enhanced amount of compensation shall be deposited within a period of one month from today, failing which, the claimants shall be entitled to receive interest @ 7% per annum. However, the remaining conditions regarding payment of interest and disbursal of amount shall remain unaltered.

6. Accordingly, the appeal is partly accepted.

April 09, 2015
naresh.k

(SHEKHER DHAWAN)
JUDGE