IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 294 OF 2011 (O&M)
DECIDED ON : 26.03.2015

Paramjit Kaur and others
...Appellants

versus

Balwant Singh and others
...Respondents

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

Present : Mr. Vikas Mehsempuri, Advocate,
for the appellants.

None for respondents No.1 and 2.

Mr. R. S. Sharma, Advocate,
for respondent No.3.

K. C. PURI, J. (ORAL)

Paramjit Kaur-widow aged about 29 years, Yuvraj Singh aged 11 years, Ramanpreet Kaur aged 10 years and Parkash Kaur-mother aged 65 years have directed this appeal against the Award dated 03.06.2010 passed by Ms. Rupinderjit Chahal, Motor Accident Claims Tribunal, Patiala, vide which the claim petition preferred by the claimants/appellants was partly accepted and the claimants/appellants were held entitled for compensation to the tune of ₹5,85,000/-. Oriental Insurance

Company-respondent No.3 was directed to pay the Award amount but recovery rights have been given to it as the driver of the offending vehicle was not having a valid driving license.

Since this is the appeal for enhancement of compensation, so the other facts need not to be narrated.

The learned Tribunal has taken the income of deceased as ₹4500/- per month and the dependency has been calculated by deducting 1/3rd in respect of personal expenses. The age of deceased was 32 years and the multiplier of 16 was applied. So, in this manner, the amount calculated was ₹5,76,000/- (3000x12x16). Another sum of ₹9000/- was granted as funeral expenses. The interest @ 6% per annum was allowed.

Learned counsel for the appellant has submitted that the income of deceased taken by the Tribunal as ₹4500/- per month is on lower side and it should have been taken as ₹8000/- per month. More so, when the evidence goes unrebutted.

I have carefully considered the said submission but do not find any force in the same.

In the absence of any documentary evidence, the income of ₹4500/- per month of deceased in the year 2006 cannot be said to be on lower side.

The next argument advanced by learned counsel for the appellant is that no amount has been given in respect of love and affection, loss of estate and consortium. It is further submitted that the amount granted in respect of funeral expenses is on lower side. It is further contended that the interest granted @ 6% per annum is also on lower side. It is also contended that the future prospects have not been taken into account while granting compensation.

Respondents No.1 and 2 served but none had appeared on their behalf, so they were proceeded ex parte.

Learned counsel for respondent No.3-Insurance Company has submitted that amount of compensation awarded is sufficient and the future prospects are not required to be taken into consideration as the deceased was not a permanent employee. He has further submitted that the multiplier of 16 has been rightly applied.

I have heard learned counsel for the parties and have gone through the record carefully.

The question whether future prospects in respect of self employed person can be taken into account, has been considered by this court in **FAO No. 3903 of 2012 decided on 15.01.2014 titled as *"Balbir Kaur and others vs. State of Haryana and others"*.** Even the Hon'ble Apex Court in recent authority ***"Smt.Neeta w/o Kallappa Kadolkar and others Etc. vs. The Div. Manager, MSRTC, Kohlapur 2015 (1) RCR (Civil) 625*** and ***"Kanhsingh and another vs. Tukaram and others" 2015 (1) Law Herald 220***, have held that future prospects in respect of self employed person can be taken into account. So, the income of deceased can be taken as ₹6750/- per month by taking into account 50% of the future prospects. In this case, the claimants are four in number. So, in view of authority ***"Sarla Verma and others vs. Delhi Transport Corporation and anr." 2009 (3) RCR (Civil) 77,*** the deduction in respect of personal expenses should have been made 1/4th. So, in this manner, the dependency comes to ₹5062.50/- per month and the yearly dependency comes to ₹60,750/- (5062.50x12). The multiplier of 16 applied by the Tribunal is strictly in accordance with Sarla Verma's case (supra) as the age of deceased was 32 years. So, by applying the multiplier of 16, the amount comes to ₹9,72,000/-. Another sum of ₹50,000/- stands allowed in respect of loss of estate. The claimants are further held entitled to claim ₹50,000/- in respect of loss of love and affection. Another sum of ₹15,000/- stands allowed in respect of funeral expenses etc., keeping in view the price index of the year 2006. The claimants are also held entitled to interest @ 7.5% per annum on whole of the amount including the enhanced amount. The amount already paid to the claimants shall be adjusted in the enhanced amount. Out of the enhanced amount, a sum of ₹3,00,000/- shall be paid to the widow and the remaining amount shall be shared equally by the other claimants. The share of minor be kept in the shape of FDR with a nationalised Bank in such a manner that it shall get maximum rate of interest. The liability to pay the amount shall be the same as ordered by the Tribunal. The Insurance Company shall be allowed to recover the amount as ordered by the

Tribunal including the enhanced amount.

Disposed of.

MARCH 26, 2015 **(K. C. PURI)**
shalini **JUDGE**