

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.6087 of 2011 (O&M)

Date of decision: 28.07.2015

Dharampal and another

..... Appellants

versus

Jai Bhagwan and another

..... Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.S.P.Chahar, Advocate for the appellants
Mr.S.S.Dalal, Advocate for respondent No.1
Mr.Ankit Jindal, Advocate for respondent No.2

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

The claimants have filed this appeal against the award dated 3.6.2011, passed by the Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal).

As per the case of the claimants, their son Manoj, aged about 24 years, was working as a driver with one Arvind Hooda. On 16.8.2010, when the deceased was going on a motorcycle bearing registration No.HR-13D-4325 along with one Amit Kumar, he was hit by the offending truck bearing registration No.HR-63-1319, being driven by respondent No.1 driver in a rash and negligent manner. As a result of the accident, head of Manoj deceased was crushed under the tyres of the truck and he died at the spot. In this regard FIR

No.326 dated 16.8.2010 under Sections 279, 304A IPC was

registered at PS City Bahadurgarh. The claimants are parents of the deceased, who was unmarried.

The Tribunal assessed the income of the deceased at Rs.5000/- per month, he being a skilled person. Since deceased was unmarried 50% was deducted as personal expenses and multiplier of 11, as per age of the parents was applied and compensation was calculated at Rs.3,30,000/-. Rs.10,000/- towards funeral expenses were also allowed and total compensation of Rs.3,40,000/- was awarded along with interest @ 7.5% per annum.

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

Learned counsel for the appellants has argued that in this case, future prospects have not been awarded. The multiplier, as per age of the deceased should have been applied and funeral expenses are also on the lower side. Nothing has been awarded for loss of love and affection to the mother.

Recently a three Judges Bench of Hon'ble Supreme Court in Munna Lal Jain and another v. Vipin Kumar Sharma and others in Civil Appeal No.4497 of 2015, decided on 15.5.2015, examined the question of grant of compensation to the self-employed person, who was self-employed *Pandit* and was Bachelor in the said case. The question of grant of future prospects to self-employed person was also considered. The Apex Court after examining the authorities of Santosh Devi v. National Insurance Company Limited (2012) 6 SCC 421, Smt. Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121, took the view that even

in case of self-employed person, addition of future income on account of future prospects is to be added.

After considering the authorities of Smt.Sarla Verma's case (supra), Reshma Kumar and others v. Madan Mohan and another, (2013) 9 SCC 65 and Santosh Devi 's case (supra), the Hon'ble Supreme Court also took the view that the multiplier as per age of the deceased is to be applied and not as per age of the dependents and accordingly enhanced the compensation.

In view of the fact the future prospects even for self employed persons are to be added and multiplier as per age of the deceased is to be applied. Therefore, taking the income of the deceased at Rs.5000/- per month, as determined by the Tribunal, 50% added on account of future prospects, which comes to Rs.7500/-. Out of which 50% is to be deducted towards personal expenses and the dependency of the claimants comes to Rs.3750/-. As per age of the deceased, multiplier of 18 is to be applied. The amount of compensation comes to Rs.8,10,000/-. Rs.one lac for loss of love and affection to the parents is allowed and another sum of Rs.25,000/- for funeral and last rites is allowed. Another sum of Rs.25,000/- for loss of estate is allowed. The total compensation comes to Rs.9,60,000/-. The enhanced compensation shall be paid along with interest @ 7.5% per annum from the date of filing of claim petition till realization.

The appeal is accordingly allowed.

28.07.2015

gk

(Kuldip Singh)
Judge