

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

**FAO No.7062 of 2011(O&M)
Date of decision: 27.04.2015**

Sajeeda and anotherAppellants

Versus

Karam Singh and othersRespondents

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

Present: Mr. Rajesh Bhateja, Advocate
for Mr. Sarfraj Hussain, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
with Ms. Monika Jangra, Advocate
for respondent No.3.

K.C. PURI J. (Oral)

CM NO.29477-CII OF 2011

For the reasons stated in the application, the same is
allowed and the delay of 559 days in filing the appeal stands
condoned.

Application is disposed of.

MAIN CASE

This is an appeal directed by widow, minor daughter
and parents of deceased, claiming compensation in respect of
death of Raheesh Ahmed, in a motor vehicular accident.

The learned Tribunal after adjudication, partly
accepted the claim petition and allowed a sum of Rs.5,40,900/-

and respondents No.1 to 3 i.e. owner, driver and insurer, were held liable jointly and severally.

Learned counsel for the appellant has not challenged about the income of the deceased, but has submitted that amount granted in respect of love and affection, loss of consortium, last rites, is on lower side. It is further submitted that interest @ 6% is also on lower side.

On the other hand, learned counsel for insurance company has supported the judgment of the learned Tribunal.

The dispute in the present case is regarding quantum only and as such, other facts need not to be narrated. The learned Tribunal has taken the income of deceased as Rs.3,600/- per month as daily wage. 1/3rd amount has been deducted in respect of personal expenses. The monthly dependency has been taken as Rs.2,400/- and the yearly dependency has been taken as Rs.28,800/-. The deceased was 18-19 years of age and as such, the multiplier of 18 has been applied and amount calculated was Rs.5,18,400/- (28800 x 18). Another sum of Rs.10,000/- was allowed in respect of loss of consortium, loss of love and affection. Rs.5,000/- was awarded in respect of loss of estate. Rs.5,000/- was allowed in respect of expenses incurred in performing the last rites. Another sum of Rs.2,500/- was allowed in respect of transportation and in this manner, the claimants were allowed a sum of Rs.5,40,900/-.

The income of the deceased taken as Rs.3,600/- per month has not been disputed, however it is submitted that in view of authority "***Rajesh and others Vs. Rajbir Singh and others***" reported in **2013(3) R.C.R. (Civil) 170**, future prospects should have been taken into account.

The learned counsel for insurance company has submitted that future prospects cannot be taken into account and has submitted that matter has been referred to Larger Bench for adjudication in "***National Insurance Company Limited vs. Pushpa and others***" vide SLP No.CC-8058/2014.

However, this point is not *res integra* as this Court in authority "***Balbir Kaur Vs. State of Haryana and others***" FAO No.3903 of 2012 decided on 15.01.2014, has thrashed this point and reached to the conclusion that in view of the authority Rajesh and others case (supra), even if the deceased is a self-employed person in that case also future prospects has to be taken into account. So, keeping in view the above-said authority, future prospects are taken into account for computing the compensation. The deceased was aged of 18-19 years, so by adding 50% in respect of future prospects, the monthly income comes to as Rs.5,400/-. So, the dependency comes to Rs.3600/- by deducting 1/3rd in respect of personal expenses as 3 dependents are there. The yearly dependency comes to Rs.43,200/- (3600 x 12).The multiplier applied by learned Tribunal is correct. So, by applying the

multiplier of 18, the amount of compensation comes to Rs.7,77,600/-. The claimants are held entitled to claim Rs.15,000/- in respect of last rites and transportation also. Another sum of Rs.50,000/- stands allowed in respect of loss of love and affection and Rs.50,000/- stands allowed in respect of loss of consortium. So, in this manner, the claimants are held entitled to claim Rs.8,92,600/-. Another point raised by learned counsel for the appellant is regarding rate of interest, so the claimants are held entitled to claim interest @ 7.5% per annum from the date of application till payment. The liability to pay the amount shall be same as ordered by the Tribunal. Out of the enhanced amount of Rs.3,51,700/-, the widow of deceased shall be entitled to claim Rs.2,00,000/- and the remaining amount shall be shared by daughter and parents in equal share. The share of the minor shall be deposited in the shape of FDR in such a manner, so that the minor will get maximum rate of interest. The said amount shall be disbursed to the minor-claimant, after attaining the age of majority. However, in case mother of Asifa desires then, she can withdraw the interest amount for education and maintenance of her daughter.

Appeal stands disposed of, accordingly.

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

27.04.2015

yakub

(K.C. PURI)
JUDGE