

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No.4150 of 2012
Date of Decision: 08.04.2015

Pardeep Kumar and another

..... APPELLANTS

VERSUS

Nawal Singh and others

..... RESPONDENTS

PRESENT: - Mr. Sudhir Kumar, Advocate
for the appellant.

Mr. M.B. Jain, Advocate
for respondent No.3-Insurance Company.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

- 1) Whether Reporters of the local papers 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?

SHEKHER DHAWAN, J.

The claimants being dis-satisfied with the compensation awarded vide award dated 29.10.2011 passed by the Motor Accident Claims Tribunal, Narnaul (for short 'The Tribunal') filed the present appeal.

Taking the case from undisputed facts that Amit Kumar (since deceased) was pillion rider on motor

cycle No.HR34C-3716, which was being driven by Mukesh Kumar. The said motor cycle met with an accident and Amit Kumar sustained injuries and later on succumbed to the injuries while being taken to the hospital.

The matter was reported to the police on the same day. The claimants claimed compensation to the tune of ₹25 lacs on the plea that the accident had taken place because of rash and negligent driving of respondent No.1.

The respondents contested the claim petition.

'The Tribunal' awarded the compensation of ₹4,77,000/- taking the income of the deceased to be ₹6,000/- per month and after taking 50% towards self dependency as deceased was unmarried and the claimants being parents of the deceased. The multiplier of 13 was applied as the deceased was of the age of 47 years.

Mr. Sudhir Kumar, learned counsel for the appellants took the plea that 'The Tribunal' has not awarded 'just compensation' in this case as nothing has been awarded on account of consortium. Even the prospects of future earnings were not taken into consideration. Only meager amount of ₹2,000/- was awarded on account of funeral expenses and ₹2,000/- on account of transportation of dead body. So the amount of compensation be enhanced suitably.

While arguing on this point, Mr. M.B.Jain, learned counsel for the respondent-Insurance Company took the plea that the appellants are not entitled to seek any enhanced compensation in view of future prospects as deceased was not getting any fixed salary rather he was working as Director NITS Computer Centre, Kanina and was earning ₹6,000/- per month only. 'The Tribunal' has already awarded 'just compensation' and the appeal deserves dismissal.

Learned counsel for the respondent-Insurance Company also took the plea that the matter regarding compensation to be awarded in view of future prospects has already been referred to the Larger Bench by Hon'ble the Supreme Court so there are no grounds of awarding of compensation under that head. However, learned counsel for the respondent has fairly conceded that there is no stay regarding awarding of compensation on account of future prospects of earnings.

Having considered the rival contentions, this Court is of the considered view that the income of the deceased was rightly assessed to be ₹6,000/- per month by the Tribunal on the basis of Salary Certificate Ex.P-1. The Tribunal has also rightly deducted ½ of the amount on account of self dependency and the annual income has to

be taken ₹36,000/-. The same does not call for any interference. However, 'The Tribunal' has not awarded any amount on account of future prospects of earning. As per ratio of law laid down by Hon'ble Supreme Court in case of **Rajesh and others Vs. Rajbir Singh and others**, 2013(9) SCC 54. There should be addition of 30% in case the deceased was in the age of 42-50 years. This addition is to be made irrespective of the fact whether deceased was working on some Government job or working on a private job. However, the Tribunal has correctly applied multiplier to be 13 and the amount of compensation to be awarded in this case is determined as under:

1	Annual income of the deceased	₹36,000/-
2	30% of increase in income	₹10,800/- (total ₹46,800/-)
3	Applying of multiplier of 13	₹46,800/-x13= ₹6,08,400/-
4	Transportation of dead body and Funeral Expenses	₹21,000/- (₹25,000/-- ₹4,000/- already awarded)
5	Total	₹6,29,400/-

The total amount of compensation comes to ₹6,29,400/- against ₹4,77,000/-. The enhanced amount of compensation i.e. ₹1,52,400/- shall be paid within a period of 30 days from today, failing which the appellants shall be entitled to interest @ 7.5% per annum. However, the

remaining conditions regarding payment of interest,
disbursal of amount shall remain unaltered.

The present appeal is partly accepted.

(SHEKHER DHAWAN)
JUDGE

April 08, 2015
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