

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

**FAO No.6159 of 2012 (O&M)
Date of decision: 19.03.2015**

Suman Kumar and another

....Appellants

Versus

Davinder Singh and another

....Respondents

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

Present: Mr. Kushagra Mahajan, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
along with, Ms. Monika Jangra, Advocate
for respondent No.2.

K.C. PURI J. (Oral)

Suman Kumar and Anjana Trehan minor daughter of Ms. Parmala Kumari, have directed this appeal against the award dated 18.07.2012 passed by Sh. G.S. Bakhi, Motor Accident Claims Tribunal, Amritsar. The claimant-Suman Kumar and Anjana Trehan daughter of Ms. Parmala Kumari, filed claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation on account of death of Parmala Kumari in a motor vehicle accident. The claim petition was resisted, however ultimately the learned Tribunal partly accepted the claim petition and allowed a sum of Rs.3,00,000/- as compensation.

The learned Tribunal has taken the income of the deceased as

Rs.3,000/- per month as labourer and 1/3rd amount was deducted in respect of personal expenses and the monthly dependency was calculated as Rs.2,000/- per month and yearly dependency was taken as Rs.24,000 (2,000 x 12). The age of the deceased was taken as 48 years and the multiplier of 12 was applied and in this manner the amount calculated was Rs.2,88,000/- (24,000 x 12). The Tribunal further allowed a sum of Rs.12,000/- on account of funeral expenses and loss of estate and in this manner a sum of Rs.3,00,000/- was granted. That amount was ordered to be paid jointly and severally.

Feeling dis-satisfied with the award dated 18.07.2012, the claimants have filed the present appeal for enhancement. The other details need not to be given as the dispute in the present appeal is regarding enhancement only.

Learned counsel for the appellant has submitted that income of the deceased has been taken as Rs.3,000/- per month as of labourer which is on the lower side. The minimum wages were Rs.3,554/- on the date of accident. However, no document has been placed on the file in this regard so, that contention cannot be accepted.

The next contention raised by learned counsel for the appellant is that future prospects has not been taken into account so, it is submitted that as per authority ***Rajesh and others vs. Rajbir Singh and others*** reported in **2013 (3) RCR (Civil) 170**, the future prospects even in respect of self-employed person should be taken into account. It is further submitted that in case the deceased is between the age group of 40-50, in that case addition in respect of future prospects should be 30% in view of the authority **Rajesh and others** case (supra).

On the other hand, learned counsel for the insurance company has submitted that since deceased was not a permanent employee as such, future prospects should not be allowed. However, keeping in view the authority Rajesh and others (supra), I have no hesitation in holding that future prospects should have been taken. So, the income of deceased is taken as Rs.3,900/- per month after adding 30% in respect of future prospects. The deduction to the extent of 1/3rd share is correctly made by the learned Tribunal so, the monthly dependency comes to Rs.2,600/- and the yearly dependency comes to Rs.31,200/- (2600 x 12). The multiplier applicable to the age of the deceased as per *Sarla Verma Vs. Delhi Transport Corporation and another* reported in **2009 (3) RCR (Civil) 77**, at the age of 48 years is 13. So, by applying that multiplier, the amount comes to Rs.4,05,600/-. The learned Tribunal has allowed a sum of Rs.12,000/-, in respect of funeral expenses and loss of estate. However, no amount has been allowed in respect of consortium so, a sum of Rs.50,000/- stands allowed in respect of consortium.

Keeping in view the age of the deceased another sum of Rs.50,000/- stands allowed in respect of loss of love and affection to the claimant. So, the claimants are held entitled to claim a sum of Rs.5,17,600/-, say Rs.5,18,000/-. The enhanced amount of Rs.2,80,000/- shall carry interest @ 7.5% per annum from the date of application till payment.

The liability to pay enhancement shall be the same as held by the Tribunal. Out of the said amount of Rs.2,18,000/-, a sum of Rs.1,18,000/- shall be deposited in the shape of FDR and that amount

shall be disbursed to the minor claimant i.e. Ms. Anjana Trehan, after attaining the age of majority.

Disposed of, accordingly.

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

(K.C. PURI)
JUDGE

18.03.2015
yakub