

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

FAO No.2412 of 2013

Date of Order: 24.7.2015

Parkasho and Another

....Appellants

Versus

Anil Kumar and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. A.S. Sidhu, Advocate for the appellants.

Mr. Eklavya K. Darshi, Advocate for respondent No.3.

SHEKHER DHAWAN,J (ORAL)

Present appeal is challenge to the award dated 28.4.2012 passed by the learned Motor Accident Claims Tribunal, Ambala (hereinafter to be referred as “the Tribunal”) whereby the Tribunal awarded total compensation of ₹6,22,000/- (i.e a sum ₹2,00,000/- to claimant No.1, ₹1,00,000/- to claimant No.2 and a sum of ₹3,22,000/- to claimant No.3 on account of death of Jacky). Claimants are parents and minor son respectively of the deceased.

Learned counsel for the appellants mainly took the plea that 'the Tribunal' has not taken into account the actual earnings of the deceased while awarding the amount of compensation. Claimants had claimed earnings of Jackey to be ₹15000/- as he was a Cloth Merchant but 'The Tribunal' took the income of the deceased to be ₹4500/- per month only. More so, nothing has been awarded on account of loss of future earnings though the deceased was of the age of 26 years only. Nothing has been

awarded on account of love and affection for the minor children. Meager amount has been awarded on account of funeral expenses for the deceased, so the amount of compensation be enhanced suitably.

Learned counsel for the respondent-Insurance Company took the plea that the Tribunal has taken the income correctly as there was no contrary evidence available on the file. Claimants-appellants are not entitled to seek enhancement on account of future earnings as the deceased was not having a regular employment and fixed earnings. It was therefore contended that the Tribunal has awarded just and proper compensation, therefore the appeal is without any merit and deserves dismissal.

Having considered rival submissions made by learned counsel for the parties, this Court is of the view that the Tribunal has rightly taken the income of the deceased to be ₹4500/- per month as there was no contrary evidence. Even the appellants could not lead any evidence during the proceedings so as to set aside the findings returned by 'The learned Tribunal regarding income of the deceased. Income of the deceased has thus been rightly taken to be ₹4500/-as determined by 'The Tribunal. However, the Tribunal has not awarded any amount on account of enhanced future earnings though the claimants are entitled to same as per law laid down by Hon'ble Supreme Court in the case of **Sarla Verma and Others Vs. Delhi Transport Corporation and another 2009 (3) RCR (Civil) 77** and **Rajesh and others v. Rajbir Singh and others” 2012 (2) Apex Court Judgments 245 (SC) and in this way 50% amount has to be added in respect of future prospects of earnings.**

The Tribunal has also not awarded a sum of ₹1 lac, which is minimum amount to be awarded in case of minor son on account of love and

affection. Apart from that, the claimants are certainly entitled to receive ₹25,000/- on account of funeral expenses whereas only a sum of ₹10,000/- has been awarded on that count.

Annual income of the deceased as per monthly income of ₹4500/- per month comes to ₹54,000/- and after deducting 1-3rd towards annual dependency, the amount comes to ₹36,000/-. By applying the multiplier of 17, the amount of compensation comes to ₹6,12,000/- and 50% of which comes to ₹3,06,000/-, so amount of compensation is re-assessed as under:

Applying multiplier of 17 to monthly dependency plus 50% towards future prospects	₹36000/- x 17 = Rs.6,12,000+3,06,000
Loss on account of love and affection for minor son	₹1,00,000/-
Loss on account of funeral expenses	₹25000/-
Total compensation	₹6,12,000/- +₹3,06,000+1,00,000+25000=₹10,43,000/-
Already awarded compensation	₹6,22,000/-
Enhanced amount of compensation	₹10,33,000 – Rs.6,22,000= ₹4,21,000/-

After enhanced amount of compensation, ₹4,21,000/- shall be payable from the date of claim petition along with interest @ 7.5% per annum from the date of claim petition. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the present appeal is accepted partly.

July 24, 2015
manoj

(SHEKHER DHAWAN)
JUDGE