IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1103 of 2014 (O&M)
Date of Decision:- 20.07.2015

Babita and others

.....Appellants

Versus

Satnam and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

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

Present: Mr. Inderjit Sharma, Advocate,
for the appellants.

Mr. R.C. Gupta, Advocate
for respondent No.3-Insurance Company.

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<u>SHEKHER DHAWAN, J. (Oral)</u>

Present appeal is challenge to the award dated 03.01.2013, passed by the Accident Claims Tribunal, Amritsar (hereinafter to be referred as 'The Tribunal'), whereby 'The Tribunal' awarded compensation of ₹7,40,000/- on account of death of Deepak Kumar.

2. Taking the case from undisputed facts that Deepak Kumar died as a result of motor vehicle accident having taken place on 11.10.2011. Claimants in this case are widow, two minor sons and mother of the deceased.

3. Learned counsel for the appellants took the plea that 'The Tribunal' has taken care of income of the deceased and calculated the amount of compensation accordingly. However, 'The Tribunal' has not taken into consideration the fact that deceased was just of the age of 31 years and his earnings were to grow considerably with the passage of time. Still nothing has been awarded on account of enhanced future earnings, as per law laid down by Hon'ble Supreme Court in cases **Sarla Verma** Vs. **Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77** and **Rajesh and others** Vs. **Rajbir Singh and others**, **2013 (3), RCR (Civil) 170.** Learned counsel for the appellants also took the plea that 'The Tribunal' has not even awarded minimum amount under conventional heads i.e. a sum of ₹1,00,000/- for loss of consortium for the widow, a sum of ₹1,00,000/- each for loss of love and affection for two minor children and another sum of ₹25,000/- on account of funeral expenses and just a sum of ₹10,000/- has been awarded under these heads. So, the amount of compensation be reassessed and appeal be accepted.

4. While arguing on these points, learned counsel for respondent No.3-Insurance Company took the plea that deceased in this

case was not working against any regular employment and as such his income cannot be made basis for enhanced future earnings. Enhancement of future earnings are based on hypothesis. Otherwise there can be increase rather even decrease in earnings in the future as well. More so, the same matter is pending before Hon'ble Apex Court. So, 'The Tribunal' has rightly not awarded any amount on account of enhanced future earnings. 'The Tribunal' awarded just compensation and the appeal is without any merit and same be dismissed.

5. Having considered the rival submissions raised by learned counsel for the parties, this Court is of the considered view that 'The Tribunal' has already ordered just compensation keeping in view the income of the deceased. There is no contrary evidence available on file that income of the deceased was other then the amount taken by 'The Tribunal'. However, 'The Tribunal' has not awarded any amount on account of enhanced future earnings as per law laid down by Hon'ble Supreme Court in **Sarla Verma's case (supra)** as well as **Rajesh and others case (supra)**, 50% income is to be added on account of enhanced future earnings.

6. As regards to plea taken by learned counsel for respondent No.3-Insurance Company that deceased was not having any fix income, the same matter has already been considered by Hon'ble Apex Court in **Rajesh and others case (supra).** There is no contrary law on the point till now. Hence, the appellants are certainly entitled to 50% of the income on account of enhanced future earnings also. Apart from that, 'The

Tribunal' has not awarded even minimum amount under conventional heads i.e. loss of consortium, loss of love and affection for minor children and minimum amount on account of funeral expenses. Accordingly the amount of compensation is reassessed as under: -

Compensation on the basis of annual income	₹7,20,000/-
Add 50% on account of enhanced future earnings	₹3,60,000/-
Loss on account of consortium for widow	₹1,00,000/-
Loss on account of love and affection for two minor children	₹2,00,000/-
Loss on account of funeral expenses	₹25,000/-
Total compensation	₹7,20,000/- + ₹3,60,000/- + ₹1,00,000/- + ₹2,00,000/- + ₹25,000/- = ₹14,05,000/-
Enhanced amount of compensation	₹14,05,000 - ₹7,20,000 = ₹6,85,000/-

7. The enhanced amount of compensation of ₹6,85,000/- 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.

8. Accordingly, the present appeal is accepted partly.

(SHEKHER DHAWAN)
JUDGE

July 20, 2015
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