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

**FAO No. 375 of 2013 (O&M)**
**Decided on : 28.05.2015**

Karamjit Kaur and Others

...Appellants

versus

Gurjit Singh and Others

...Respondents

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

1. Whether Reporters of Local Newspapers 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?

****

Present : Mr. Raj Kumar Rana, Advocate
for the appellants.

Mr. R.C. Kapoor, Advocate
for respondent No. 2-Insurance Company.

**<u>K. C. PURI, J. (ORAL)</u>**

This is an appeal directed by widow, two minor children and mother of deceased-Taranjit Singh, who died in a motor vehicular accident, against the award dated 31.08.2012, passed by Shri Arun Kumar Tyagi, Motor Accident Claims Tribunal, Ambala.

The claim petition was partly accepted and a sum of ₹ 5,76,000/- was granted by the Tribunal.

The present petition has been filed for enhancement of compensation.

The learned Tribunal has assessed the income of deceased as ₹ 4,500/- per month and has deducted 1/4th in respect of personal expenses in view of authority ***<u>Sarla Verma and Others Versus Delhi Transport</u>***

Contd...P/2...

***Corporation and Another" 2009 (3) RCR (Civil) 77.*** The dependency was taken as ₹ 36,000/- per annum and multiplier of 16 was applied and the amount of compensation was calculated as ₹ 5,76,000/-. Another sum of ₹ 10,000/- was granted towards transportation of the dead body, funeral and last rites of the deceased. ₹ 10,000/- was granted in respect of consortium. Another sum of ₹ 10,000/- was granted towards non-pecuniary damages.

Learned counsel for the appellants has submitted that the income of the deceased has been taken on lower side. The deceased was running a shop of scientific instruments at Ram Bagh Road at Ambala Cantt.

I have considered the said submission, but do not find any force in the same.

The income of the deceased as ₹ 4,500/- per month in the absence of any documentary evidence in the year 2008 cannot be said to be on lower side.

Learned counsel for the appellant has further submitted that future prospects has not been considered while awarding the amount of compensation. It is further contended that there is wrong calculation while calculating the dependency. However, no challenge regarding multiplier and deduction of $1/4^{th}$ share in respect of personal expenses has been made. He has further submitted that amount granted in respect of loss of consortium, funeral expenses and loss of estate are on lower side. No amount in respect of love and affection has been granted. So, the prayer has been made for enhancement of compensation.

Contd...P/3...

Learned counsel for respondent No. 2-Insurance Company has supported the judgment of the Tribunal. It is submitted that the matter regarding grant of future prospects is subjudiced before the larger bench of Hon'ble Apex Court in ***National Insurance Co. Ltd. Versus Pushpa and Other,*** in Special Leave to Appeal No. C-8058 of 2014.

I have considered the submissions made by both parties and have gone through the record of the case.

The first and foremost question is whether future prospects has to be allowed to a person, who is self-employed or fixed salaried person. This aspect of the case has been dealt with by three Judges Bench of Hon'ble Apex Court in authority ***"Rajesh and Others Versus Rajbir Singh and Others, 2013 ACJ 1403 and 2013(3) Recent Apex Judgments (R.A.J.) 659".*** There is nothing on the record that the operation of the said judgment has been stayed by any competent Court. Otherwise also, this aspect of the case has been dealt in this Court in *FAO No. 3903 of 2012 (O&M), titled as Balbir Kaur and Others Versus State of Haryana and Others, decided on 15.01.2014* and **Rajesh and Others' case (supra)** has been followed. So, in my view, future prospects has to be considered. There is no reason for withholding the concession of future income in respect of self-employed person. Even the shop-keeper gets handsome income after considerable period. In this case, the age of the deceased was 35 years. So, in view of authority **Rajesh and Others' case (supra)**, the claimants are held entitled to claim 50% of the income in respect of future prospects. So, the income of the deceased can be taken as ₹ 6,750/- by adding 50% in respect of future prospects. The claimants

Contd...P/4...

are four in number, so in view of authority ***Sarla Verma and Others*** **(supra)**, the dependency has to be calculated by deducting 1/4th in respect of personal expenses. So, the monthly dependency comes to ₹ 5062.50. The yearly dependency comes to ₹ 60,750/- (5062.50 x 12). The multiplier of 16 has been rightly applied by the Tribunal. So, by applying that multiplier, the amount of compensation comes to ₹ 9,72,000/-.

The death in this case has taken place in the year 2008 and as such, amount in respect of last rites, future prospects, loss of consortium and love and affection etc. has to be given keeping in view the price index of that year. So, in these circumstances, a sum of ₹ 15,000/- stands allowed in respect of expenses on last rites and transportation etc. The claimant-widow is also held entitled to claim ₹ 50,000/- in respect of consortium. The claimants-minors are held entitled to claim ₹ 50,000/- in respect of loss of love and affection.

So, in this manner, the claimants are held entitled to claim ₹ 10,87,000/-. The enhanced amount shall carry interest at the rate of 7.5% per annum from the date of application till realization.

Out of the enhanced amount ₹ 3 lacs shall be paid to the widow as she was fully dependent on the income of deceased. The remaining amount shall be equally shared between claimants-appellants No. 2 to 4.

The liability to pay the amount alongwith interest shall be the same as ordered by the Tribunal.

The appeal stands disposed of.

May 28, 2015 **( K.C. PURI )**
*dk kamra* **JUDGE**