

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3833 of 2013(O&M)

Date of Decision:30.07.2015

Shakuntla Devi and others

.....Appellants

Versus

Lakhwinder Singh and another

.....Respondents

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

**Present: Mr.Ishan Singh Cooner, Advocate,
for the appellants.**

**Mr.Rohit Goswami, Advocate,
for Mr.D.P.Gupta, Advocate,
for respondent No2-Insurance Company.**

K.C.PURI, J.(oral)

C.M.No.15600-CII of 2013

This is an application for condoning the delay of 251 days in filing the appeal. Reply to the application has not been filed.

It is the duty of the Court to allow just and fair compensation. So, the delay in filing the appeal stands condoned on the grounds mentioned in the application.

FAO No.3833 of 2013

This is an appeal directed by widow, two sons and father of deceased-Balwan Singh, claimants, against the award dated 08.06.2012 passed by Ms.Kanchan Mahi, Presiding Officer, Motor Accident Claims Tribunal, Panchkula, who died in a motor vehicular accident on the intervening night of 20/21.01.2011. The Tribunal after adjudication partly accepted the claim petition and allowed a

sum of ₹6,50,000/-. The income of the deceased was taken as ₹5,000/- per month as a Driver. 1/4th amount was deducted in respect of personal expenses. The yearly dependency was taken as ₹45,000/-. By applying multiplier of 14, the amount of compensation was calculated as ₹6,30,000/-. Another sum of ₹5,000/- was allowed in respect of funeral expenses, ₹10,000/- towards loss consortium and ₹5,000/- was allowed on account of loss of estate. In this manner, a total sum of ₹6,50,000/- was allowed.

The claimants have directed this appeal for enhancement.

Learned counsel for the appellants has submitted that future prospects of the deceased has not been taken into consideration while computing the compensation. The amount in respect of consortium, loss of love & affection and expenses on last rites are on the lower side.

Learned counsel for the Insurance Company has supported the award and has submitted that the matter regarding future prospectus is pending adjudication before the larger Bench of the Hon'ble Apex Court and, as such, amount in respect of future prospects cannot be allowed.

I have heard the learned counsel for both the sides and have gone through the file.

The income of the deceased has been taken as ₹5,000/- per month by the Tribunal. That aspect has not been challenged by the appellants during the course of arguments.

The question arises whether future prospects can be considered for computing compensation. That controversy has been

set at rest by the Hon'ble Apex Court in latest authorities titled as **"Rajesh and others vs. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245 (SC) and Civil Appeal No. 4497 of 2015, decided on 15.05.2015 titled as "Munna Lal Jain and another vs. Vipin Kumar Sharma and others"**. So, in view of **Rajesh and others & Munna Lal Jain's cases(supra)**, 30% amount has to be added in respect of future prospects, in case, the deceased is in the age group of 40-50 years. So, the monthly income of the deceased is taken as ₹6,500/- per month after adding 30% in respect of future prospects. There are four dependents and as such 1/4th amount has to be deducted in respect of personal expenses, in view of **Sarla Verma and others Versus Delhi Transport Corporation and another, 2009 (3) RCR (Civil) 77**. So, the dependency of the claimants comes to ₹4,875/- per month. The yearly dependency comes to ₹58,500/-. Multiplier of 14 has been rightly applied by the Tribunal at the age of 42 years, in view of authority of **Sarla Verma and others's case(supra)**. So, by applying that multiplier, the amount of compensation comes to ₹8,19,000/-. The amount in respect of funeral expenses, loss of love & affection and in respect of consortium has to be considered in view of the price index prevailing in the year, 2011. So, another sum of ₹20,000/- stands allowed in respect of expenses on last rites and transportation. The claimant widow is held entitled to claim ₹75,000/- in respect of consortium and another sum of ₹75,000/- stands allowed to the sons in respect of loss of love and affection. In this manner, the claimants are held

entitled to claim ₹9,89,000/-. Out of enhanced amount, ₹1,50,000/- shall be paid to the widow and the remaining amount shall be shared by the remaining claimants. The enhanced amount shall carry interest @ 7.5% per annum from the date of application till payment. The liability to pay the enhanced amount shall remain the same as ordered by the Tribunal.

July 30, 2015
seema

(K.C.PURI)
JUDGE