

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2523-2014

Date of Decision: April 9, 2015

Kirna Devi and others

...Appellants

Versus

Randhir Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. R.S. Longia, Advocate,
for the appellants.

Mr. Rajneesh Malhotra, Advocate,
for respondent No. 2.

NARESH KUMAR SANGHI, J (Oral)

The present appeal has been filed by the dependent/claimants of Gian Chand (since deceased), challenging the award dated 16.1.2014, passed by learned Motor Accidents Claims Tribunal, Kurukshetra (for brevity, 'the Tribunal'), on account of inadequacy of the compensation awarded to them (appellants).

Learned counsel for the appellants has not raised any dispute with regard to monthly income of Gian Chand (since deceased), which has been assessed as Rs.6,000/- (Rupees six thousand) by learned Tribunal; personal expenses of the deceased by deducting 1/4th of the monthly income; applying multiplier of 13; and a sum of Rs. 1,00,000/- (Rupees one lac)

awarded in favour of appellant No. 1/widow, Kirna Devi, under the head 'consortium'. However, he submits that learned Tribunal has failed to add 30% of the monthly income of Gian Chand (since deceased) under the head 'future prospects'. In support of his contention, learned counsel has placed reliance upon a 3-Judge Bench judgment of Hon'ble the Supreme Court in the case of **Rajesh and others v. Rajbir Singh and others, (2013) 9 SCC 54**. He further submitted that only Rs. 10,000/- (Rupees ten thousand) have been awarded against the settled norm of Rs.25,000/- (Rupees twenty-five thousand) for funeral expenses. He also contended that learned Tribunal has not awarded a single penny to minor children of Gian Chand (since deceased) under the head 'love and affection'.

Learned counsel for respondent No. 2, IFFCO TOKIO General Insurance Company Ltd., very fairly concedes that the minor children of Gian Chand (since deceased) can be awarded appropriate amount under the head 'love and affection'. However, he submits that adequate compensation has already been awarded to the appellant/claimants, therefore, there is no necessity to add 30% income as 'future prospects' in the monthly income of Gian Chand (since deceased). However, when he was confronted with 3-Judge Bench judgment delivered in the case of **Rajesh and**

others (supra), where Hon'ble the Supreme had laid down the criteria as to how much amount has to be added for 'future prospects' in the event of death of a person in a motor vehicular accident, learned counsel conceded that the appellants can be awarded 30% of the monthly income as 'future prospects'. He has also not objected to the prayer of learned counsel for the appellants with regard to funeral expenses.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

This appeal has been filed by the claimant/appellants for modification and enhancement of the amount of compensation awarded by learned Tribunal, whereas no appeal or cross-objections have been filed by the owner, driver and insurance company of the offending vehicle. Therefore, this Court does not deem it necessary to go into the factual aspects of the case.

In 3-Judge Bench judgment in the case of **Rajesh and others (supra)**, Hon'ble the Supreme Court has held that if a person between the age group of 40 – 50 years dies in a motor vehicular accident, then 30% of his income can be added in the monthly income on account of 'future prospects'. As per the findings of learned Tribunal, Gian Chand (since deceased) was

earning Rs. 6,000/- (Rupees six thousand) per month and if 30% of his monthly income is calculated, the same comes to Rs. 1,800/- (Rupees one thousand and eight hundred), and after adding the said amount under the head 'future prospects' the monthly income of the deceased would be Rs.7,800/- (Rupees seven thousand and eight hundred). Keeping in view the number of dependants and as per settled norms, fraction of 1/4 has rightly been applied by learned Tribunal for calculating personal expenses and the same would be Rs.1950/- (Rupees one thousand and nine hundred and fifty). After deducting the personal expenses from the monthly income the net monthly dependency comes to Rs.5,850/- (Rs.7800 – Rs.1950 = Rs.5,850). As per the aforementioned revised calculations, the annual dependency of the claimant/appellants comes to Rs. 70,200/- (Rupees seventy thousand and two hundred) [Rs.5,850 x 12months = Rs.70,200]. Gian Chand (since deceased) was 48 years old at the time of his death, therefore, multiplier of 13 has been applied by learned Tribunal as per the ratio the judgment of Hon'ble the Supreme Court in the case of **Sarla Verma v. Delhi Transport Corporation, 2009 (3) R.C.R. (Civil) 77**. Since, there is no dispute in this regard, therefore, after applying the multiplier of 13, the figure would arrive at Rs. 9,12,600/- (Rupees nine lacs and twelve thousand and six hundred) [Rs.70,200/- X 13 =

Rs.9,12,600/-].

Appellant Nos. 2 to 5, i.e. minor children of Gian Chand (since deceased) are held entitled to Rs. 50,000/- (Rupees fifty thousand) each under the head 'love and affection'. Thus, the total amount under this head comes to Rs. 2,00,000/- (Rs. 50,000/- x 4 = Rs. 2,00,000/-).

Rs. 10,000/- (Rupees ten thousand) awarded by learned Tribunal for 'funeral expenses' also appears to be on lower side and, as such, the claimant/appellants are held entitled to Rs.25,000/- (Rupees twenty-five thousand) under this head.

Thus, the claimant/appellants are held entitled to the compensation as per the calculations made in the following table:

Sr. No.	Heads	Detail of calculation	Amount (in Rs.)
(A)	(B)	(C)	(D)
1	Assessed monthly income of the deceased		6000
2	Future prospects	30% of 1(D)	1800
3	Monthly income after adding future prospects	1(D) + 2(D)	7800
4	Monthly personal expenses of the deceased	1/4 th of 3(D)	1950
5	Net dependency (per month)	3(D) -4(D)	5850
6	Annual dependency of claimant/appellants	5(D) X 12	70200
7	Multiplier applied	13	
8	Compensation after applying the multiplier	6(D) X 13	912600
9	Loss of consortium, payable to (Appellant No. 1/Widow, Smt. Kirna Devi)		100000

10	Love and Affection (payable to Appellant Nos. 2 to 5 in equal share)		200000
11	Funeral expenses		25000
	Total Compensation	Sum of 8(D) to 11(D)	1237600

As a sequel to the above, this appeal is partly allowed. A sum of Rs. 12,37,600/- (Rupees twelve lacs and thirty-seven thousand and six hundred only) is awarded as compensation to the claimant/appellants. Hon'ble the Supreme Court in the matter of **Neeta and others v. Divisional Manager, Maharashtra State Road Transport Corporation**, 2015 ACJ 598, and **Jitendra Khim Shankar Trivedi v. Kasam Daud Kumbhar**, 2015 ACJ 708 has awarded interest @ 9% per annum. Therefore, the claimant/appellants would be entitled to interest @ 9% p.a. on the awarded amount from the date of filing of the claim petition till realization. The net amount after adding the component of interest and deducting the amount already paid, shall be disbursed to the to the claimant/appellants as per the directions passed by learned Tribunal.

(NARESH KUMAR SANGHI)
JUDGE

April 9, 2015
Pkapoor