IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.411 of 2013 (O&M)
Date of decision: 17.07.2015

Babin Devi and others

….. Appellants

versus

Jasbir and others

……Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Sandeep Kumar Yadav, Advocate for the appellants
Mr.D.K.Prajapati, Advocate for
Mr.R.S.Madan, Advocate for respondent No.5

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?

Kuldip Singh, J. (Oral)

CM No.2439-CII of 2013

This application has been filed for condonation of 35 days delay in filing the appeal. The application is accompanied by an affidavit. For the reasons mentioned therein, it is allowed and 35 days delay in filing the appeal stands condoned.

FAO No.411 of 2013

The claimants have filed this appeal against the award dated 7.8.2012, passed by the Motor Accident Claims Tribunal, Narnaul (for brevity, 'the Tribunal'), whereby on account of death of Ajit Singh, aged about 31 years, a compensation to the tune of Rs.5,22,000/- was awarded. Claimants are not satisfied with the quantum of compensation under the various heads.

Brief facts of the case are that on 11.3.2009 Ajit Singh was going along with other claimants on motor cycle Bajaj Pulsar

(A/F) when truck bearing registration No.HR-45-0067, being driven by respondent No.1- driver hit the motorcycle causing injuries to its occupants including Ajit Singh. Ajit Singh was removed to PGIMS Rohtak, where he succumbed to injuries. FIR No.65 dated 11.3.2009 was accordingly registered against the respondent -driver of the truck.

Before the Tribunal, it was stated that deceased was a mason. In the absence of any proof, the Tribunal assessed the income of the deceased at Rs.4000/- per month. 1/3rd was deducted as personal expenses, multiplier of 16 was applied and compensation was calculated at Rs.5,12,000/-. Rs.10,000/- for transportation of dead body and last rites were also allowed. Thus, the total compensation was calculated at Rs.5,22,000/-.

Learned counsel for the appellants has argued that in this case, future prospects were not allowed. Since there were four dependents, deduction should have been made @ ¼. No compensation for loss of consortium, love and affection to the children and the mother has been awarded and that the funeral expenses have been allowed on the lower side. The Tribunal also awarded interest @ 6% per annum which is also on the lower side. I am of the view that in view of authority in the case of *Sarla Verma and others v. Delhi Transport Corporation and others, 2009 ACJ 1298 (SC),* since number of dependents were four, 1/4th should be deducted as personal expenses. In view of authority of three Judges Bench of the Supreme Court in *Munna Lal Jain and another v. Vipin Kumar Sharma and others in Civil Appeal No.4497 of 2015, decided* *on 15.5.2015,* the future prospects in case of self employed persons are also be allowed. Since age of the deceased was 31 years, therefore, 50% to be added as income on future prospects. Total income comes to Rs.6,000/- from which after deducting 1/4th i.e. Rs.1500/-, the dependency comes to Rs.4500/- per month. As per age of the deceased, multiplier of 16 is to be applied. The total amount of compensation thus, comes to Rs.4500 x 12 x 16 Rs.8,64,000/-. Rs.one lac to the widow for loss of consortium is allowed. Rs.one lac to the minor children for loss of love and affection is allowed. Another Rs.50,000/- to the mother for loss of affection of her son is allowed. In place of Rs.10,000/-, Rs.25,000/- for funeral and last rites are allowed. The total amount of compensation comes to Rs.11,39,000/-. Interest @ 6% per annum awarded by the Tribunal is also on the lower side. Therefore, interest is allowed @ 7.5% per annum on the entire amount. The enhanced compensation shall be paid along with interest @ stated above from the date of filing of claim petition till realization.

Out of the amount of compensation a fix sum of Rs.1,00,000/- shall go to the mother of the deceased. Out of the remaining amount, ½ shall go to the widow of the deceased who is to run day to day affairs of the family and remaining ½ shall be equally shared by the minor children of the deceased. The share of the minor children shall be invested in long term FDR in the name of the minors in the bank of the choice of their mother and shall be paid to them on becoming major. In the FDRs, date of birth of the minors shall also be recorded and no further order for release of the amount will be required. However, mother of the minors shall be entitled to utilize the interest on the FDRs for the upbringing of the minors.

The appeal is allowed in aforementioned terms.

17.07.2015 **(Kuldip Singh)**
gk **Judge**