

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

FAO No. 2248 of 2015 (O&M)

Decided on: 6.4.2015.

United India Insurance Company Limited, Chandigarh

... Appellant

Versus

Pooja and others

... Respondents

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

Present : Mr. Surinder Singh Sidhu, Advocate,
for the appellant-insurance company.

K.C.PURI.J.

This is an appeal directed by insurance company against the Award dated 13.1.2015 passed by Motor Accident Claims Tribunal, Panchkula (for short “the Tribunal”) vide which the claim petition has been partly accepted and the claimants widow, minor son, daughter and mother have been allowed a sum of Rs.17,28,000/- as compensation on account of death of Ashu in a motor vehicular accident.

Learned counsel for the appellant insurance company has challenged the Award on the ground of quantum only.

It is submitted that assessment of income of the deceased to the tune of Rs.9,000/- per month is excessive. It is further submitted that future prospects should not have been taken into account in view of authority **Reshma Kumari and others vs. Madan Mohan and another** **2013(2) RCR (Civil) 660.** It is submitted that authority **Rajesh and others**

vs. Rajbir Singh and others 2013 ACJ 1403 is latter in time and as such authority Reshma Kumari's case (supra) should have prevailed regarding future prospects. He has further relied upon authority Union of India and others vs. S.K. Kapoor 2011(4) SCC 589 and has submitted that first authority in time shall prevail which is Reshma Kumari's case (supra). So, no amount regarding future prospects should have been granted by the Tribunal. More so, in authority National Insurance Co. Ltd. vs. Pushpa and others (SLP No.8058 of 2014 decided on 2.7.2014) matter regarding grant of future prospects has been referred to larger bench.

I have considered the said submission made by learned counsel for the appellant but do not find any force in that submission.

So far as the assessment of income to the tune of Rs.9,000/- per month is concerned, that cannot be said to be excessive. Today, even a labourer earns more than Rs.300/- per day so, income of Rs.9,000/- per month in these days cannot be said to be on higher side.

The point which of the authority should be followed i.e. Rajesh's case (supra) or Reshma Kumari's case (supra) has been dealt with by this Court in Balbir Kaur and others vs. State of Haryana and others (FAO No.3903 of 2012 decided on January 15th, 2014). In the said authority, it has been observed while relying upon a full bench authority of this Court in Indo Swiss Time Ltd. vs. Umrao and others AIR 1981 Pb. & Hr 213(1) that in case there are two decisions of equal benches in that case, choice with the Court is difficult but the authority which has more elaborately dealt with the issue in question should be followed and it has been observed by this Court in that authority that Rajesh's case (supra)

should be followed in respect of grant of future prospects. Learned Tribunal has also relied upon the said authority. Learned counsel for the appellant could not show any judgment vide which the operation of **Rajesh Kumar's case (supra)** has been stayed by the Hon'ble Apex Court.

So far as the authority **Pushpa's case (supra)** is concerned, in that case, no doubt, the matter regarding grant of future prospects in respect of self employed and fixed salaried persons has been referred to the larger bench but no decision has been produced that operation of **Rajesh's case (supra)** has been stayed.

So far as the authority **S.K. Kapoor's case(supra)** is concerned, the ratio decidendi of that case is that when decision of a bench of equal strength is to be deviated by a coordinate bench of equal strength in that case, proper course is to refer the matter to large bench. In the said authority, it was not in issue that in case there are two different decisions by equal strength of judges which of the decision should be followed.

So, in these circumstances, I find no fault with the Award of the Tribunal. The dependency has been calculated strictly in accordance with authority **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another 2009(6) SCC 121.**

So, no ground for interference is made out. Consequently, the appeal is without any merit and the same stands dismissed.

6.4.2015.
SN

(K.C.PURI)
JUDGE