IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO NO. 5114 OF 2013 (O&M)
DECIDED ON : 13.08.2015

Kirna Kumari and others
...Appellants

versus

Jagtar Singh and others
...Respondents

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

Present : Mr. Anil Kumar Spehia, Advocate,
for the appellants.

Mr. Parvez Akhtar, Advocate for
Mr. Mohd. Yousaf, Advocate,
for respondent No.1.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate,
for respondent No.3.

K. C. PURI, J. (ORAL)

This is an appeal directed by the claimants against the Award dated 01.07.2013 passed by Shri G.B.S. Dhillon, Motor Accident Claims Tribunal, Hoshiarpur, vide which the claim petition preferred by the claimants was partly accepted and a sum of ₹12,70,000/- was allowed as compensation.

Briefly stated, Kirna Kumari-widow, Parkash Kaur-mother, Gurnam Ram-father, Monika-daughter and Rajat Kumar-minor son of the deceased filed claim petition seeking compensation on account of death of deceased Prem Singh in a motor vehicular accident which took place on 30.07.2010.

The Tribunal has taken the income of deceased as ₹10,000/- per month. 1/4th amount was deducted in respect of personal expenses. The yearly dependency was taken as ₹90,000/-. The multiplier of 14 was applied. In this manner, the amount of compensation was calculated as ₹12,60,000/-. Another sum of ₹10,000/- was allowed in respect of funeral expenses. Now, the present appeal has been filed for enhancement of compensation.

I have heard learned counsel for the parties and have gone through the records carefully.

Learned counsel for the appellants has submitted that no amount in respect of future prospects has been allowed. It is further submitted that the amount granted in respect of funeral expenses is also on lower side. It is further submitted that no amount in respect of consortium, loss of love and affection has been allowed.

On the other hand, learned counsel for the Insurance Company has submitted that income of the deceased as ₹10,000/- per month, is already on the higher side. It is further contended that the claimants have claimed that the deceased was earning ₹10,000/- per month from running a Tata Ace bearing registration No. PB-32J-8734. Besides this, he was also earning ₹5000/- from the tea stall. It is further submitted that both these incomes are not supported by any proof except bald statement of the claimant.

In view of authority ***"Rajesh and others vs. Rajbir Singh and others" 2012 (2) Apex Court Judgments 245***, future prospects have to be taken into consideration to the extent of 30% as the age was 43 years of age at the time of his death. The Tribunal must have added 30% in the monthly income of the deceased while assessing income of deceased as ₹10,000/- per month as income of owner/driver of Tata Ace cannot be ₹10,000/- per month in the year 2010. So, the income taken by the Tribunal as ₹10,000/- per month assessed by the Tribunal also includes 30% addition on account of future prospects. 1/4th amount has been rightly deducted by the Tribunal in respect of personal expenses. The multiplier of 14 has also been rightly applied by the Tribunal keeping in view the authority ***"Sarla Verma and others vs. Delhi Transport Corporation and another" 2009 (3) RCR (Civil) 77***. So, this part also does not call for any interference. However, there is one grey area for enhancement. A sum of ₹25,000/- stands allowed in respect of last rites and transportation of dead body. Another sum of ₹1,00,000/- stands allowed to the widow in respect of consortium. The other claimants are further held entitle to claim ₹1,00,000/- in respect of loss of love and affection, including the minor son who has been arrayed as party. In this manner, the claimants are held entitle to claim ₹14,85,000/- as compensation. Whole of the amount shall carry interest @ 7.5% per annum from the date of application till its realisation. The amount already paid shall be adjusted towards the said amount. The liability to pay the amount shall remain the same as ordered by the Tribunal. Out of the enhanced amount, a sum of ₹1,15,000/- shall be paid to the widow and the remaining ₹1,00,000/- shall be paid to the minor. The share of the minor shall be kept in the shape of FDR with a nationalised bank in such a manner that he should get maximum rate of interest.

With the above said modification, the appeal stands disposed of.

AUGUST 13, 2015 **(K. C. PURI)**
shalini **JUDGE**