IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

FAO No.533 of 2013 (O&M)
Date of decision: 28.04.2015

National Insurance Company Limited

….. Appellant

versus

Salinder Kaur and others

……Respondents

FAO No.1254 of 2013 (O&M)

Salinder Kaur and others

….. Appellants

versus

Sudarshan Kumar and another

……Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ravinder Arora, Advocate for the appellant
in FAO No.533 of 2013 and for respondent No.2
in FAO No.1254 of 2013
Mr.Vikram Bali, Advocate for the appellant
in FAO No.1254 of 2013 and for respondent No.1 to 3
in FAO No.533 of 2013
Mr.Vikram Sat Pal, Advocate for respondent No.1
in FAO No.1254 of 2013 and for respondent No.4
in FAO No.533 of 2013

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)

This order will dispose of two appeals bearing FAO Nos.533 of 2013 and 1254 of 2013, filed by the Insurance Company as well as the claimants against the award dated 25.9.2012, passed by the Motor Accident Claims Tribunal, Panchkula.

Davinder Singh working as Sub Inspector in Haryana police was going on foot on 30.11.2010 near village Raja when he was hit by a speeding car bearing registration No.PB-65-D-9816 driven by the respondent – Sudarshan Kumar. As a result of the accident, Davinder Singh Sub Inspector died. A criminal case regarding the accident was registered. It is stated that the deceased was 53 years of age and his salary was Rs.29,000/- per month. The Tribunal came to the conclusion that as per service record, salary of the deceased was Rs.33,109/-. 30% increase on account of future prospects was given and salary was taken to be Rs.43042/- per month and gross annual income came to Rs.5,16,504/-. After deducting the income tax as well as education cess, the income was calculated at Rs.3,36,504/- per year. The Tribunal also noticed that the deceased was to retire at the age of 55. Therefore, the multiplier of 11 which was attracted in the present case, was split into two parts, one age upto 55 years and other after the age of 55 years. The Tribunal after applying the multiplier of 11, calculated the compensation at Rs.27,30,348/-. Rs.30,000/- for loss of consortium, loss of estate and funeral expenses at the rate of Rs.10,000/- each was allowed. Total compensation of Rs.27,60,348/- was allowed along with interest @ 6% per annum from the date of filing of claim petition till realization.

The challenge of the insurance company to the award on the ground that addition of 30% income on account of future prospects is not justified. It has been argued that as per the case of *Sarla Verma and others v. Delhi Transport Corporation and others,* *2009 ACJ 1298 (SC),* after the age of 50 years, no compensation on account of future prospects is to be allowed. However, as per authority of *Rajesh and others v Rajbir Singh and others, 2012 ACJ 1403 (SC),* in case age of the deceased is beyond 50 years, 15% future prospects are allowed. It has been further argued that the matter has been referred to the larger Bench. Therefore, no addition on account of future prospects is to be allowed.

I am of the view that the authority *Rajesh's case (supra)* has not been over ruled so far. Therefore, in place of 30% income on account of future prospects, only 15% is to be added. There is no dispute about the multiplier. However, I am also of the view that in view of *Sarla Verma's case (supra),* split multiplier is not to be applied. It is also further contended that age of retirement in Haryana is 58 years and not 55 years as erroneously mentioned in the award.

It being so, the compensation is re-calculated as under:-

(Salary Rs.33,109/-)

By adding 15% for future prospects it comes

to Rs.3,80,751/-.

Gross annual income comes to Rs.4,56,900/-

From the said income 30% is deducted as income tax i.e.

Rs.1,37,880/- as per *Sarla Verma's case (supra),*.

The net income comes to Rs.3,19,020/-

After applying the multiplier of 11, amount of compensation comes to

Rs.3,19,020/-x 11 = Rs.35,09,220/-.

For loss of consortium, Rs.one lac to the widow is allowed and for loss of love and affection and guidance Rs.one lac to claimant Nos.2 and 3 is allowed. Rs.25,000/- on account of funeral and last rites are also allowed. Total amount of compensation comes to Rs.37,34,220/-. Interest @ 7.5% per annum on the enhanced compensation shall be paid from the date of filing of claim petition till its realization.

The order of the Tribunal is further modified to the extent that out of the amount of compensation, 50% shall be paid to the widow Salinder Kaur -respondent No.1 herein and the remaining 50% shall be equally shared by claimant Nos.2 and 3 (respondent Nos.2 and 3). The order of the Tribunal directing to deposit the amount in FDRs is set aside.

Both the appeals are accordingly allowed to the above noted extent.

28.04.2015 **(Kuldip Singh)**
gk **Judge**