

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

(1)

**FAO No. 3798 of 2015 (O&M)
Date of Decision: August 18, 2015.**

New India Assurance Company Limited

.....APPELLANT(s).

VERSUS

Asha Devi and others

.....RESPONDENT(s).

(2)

FAO No. 3799 of 2015 (O&M)

New India Assurance Company Limited

.....APPELLANT(s).

VERSUS

Shakunti Devi and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Satpal Dhamija, Advocate
for the appellant (s).

SURINDER GUPTA, J.

Both the above referred appeals have been field by New India Assurance Company against the award passed by Motor Accident Claims Tribunal, SAS Nagar (Mohali) (later referred to as the Tribunal) for the death of Rajesh Kumar son of claimant Asha Devi (FAO No.3798 of 2015) and Chandan Kumar son of claimant Shakunti Devi and Ram Chander Mehton

(FAO No.3799 of 2015). While allowing the compensation of ₹11,12,000/- for the death of Rajesh Kumar and Chandan Kumar, the Tribunal considered the factors tabulated below:-

Sr.No.	Heads	Calculation
(i)	Assessed monthly income	Rs.6,000/- P.M.
(ii)	50% of (i) above to be increased in the name of future prospects	Rs.6000/-+3000/- = Rs.9000/-
(iii)	50% of (ii) deducted as personal expenses of the deceased	Rs.9000-4500/- Rs.4500/-
(iv)	Compensation after multiplier of '18' is applied	Rs.4500/- x 12 x 18 =Rs.9,72,000/-
(v)	Loss of love and affection to claimants No.1 & 2	Rs.50,000/- each = Rs.1,00,000/-
(vi)	Transportation charges of dead body	Rs.15,000/-
(vii)	Funeral and transportation expenses	Rs.25,000
Total Compensation Awarded		Rs.11,12,000/-

Learned counsel for the appellant has argued that both the deceased were unmarried, as such, the Tribunal has wrongly allowed 50% towards their future prospects, particularly when the matter is under consideration before the Hon'ble Apex Court in the reference made in case of *National Insurance Company Limited Vs. Pushpa and others Appeal (C) No.8058 of 2014 decided on 02.07.2014.*

In the case of *National Insurance Company Limited Vs. Pushpa and others (supra)*, while differing with the view taken in case of *Sarla Verma and others Vs. Delhi Transport Corporation (2009)6 SCC 121*, it was observed as follows:-

“18. Therefore, we do not think that while making the observations in the last three lines of para 24 of *Sarla Verma* judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of

a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation.”

In case of ***Rajesh and others Vs. Rajbir and others (2013)***⁹

SCC 54, a three Judges Bench of Hon'ble Apex Court has observed in para 11 and 12 as follows:-

“11. Since, the Court in **Santosh Devi's case** (supra) actually intended to follow the principle in the case of salaried persons as laid in **Sarla Verma's case** (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.

12. In **Sarla Verma's case** (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between

the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter.”

Reference was made to a larger Bench in case of *National Insurance Company Limited Vs. Pushpa Devi and others (supra)*, on 02.07.2014. In the recent judgment dated May 15, 2015 in case titled *Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3) RCR (Civil) 447*, a three Judges Bench of Hon'ble Apex Court allowed future prospects in the case of self-employed persons following the observations made in case of *Rajesh and others Vs. Rajbir and others (supra)*. As the view taken in case of *Rajesh and others Vs. Rajbir and others (supra)* has been followed by the Hon'ble Apex Court in *Munna Lal Jain and others Vs. Vipin Kumar Sharma and others (supra)*, the Tribunal committed no error while allowing 50% of the income towards future prospects while allowing the compensation to the claimants.

No interference on this score is called for.

No other point has been argued by learned counsel for the appellant.

Both these appeals have no merits. Dismissed.

August 18, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE