# IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**FAO No.6022 of 2014 (O&M)**
**Date of decision: 30.03.2015**

Mamta and others ….Appellants

Versus

Kalu Ram and others ….Respondents

**2) FAO No.8934 of 2014 (O&M)**

Shri Ram General Insurance Company Limited ….Appellant

Versus

Mamta and others ….Respondents

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

Present: Mr. S.K. Yadav, Advocate
for the appellants in FAO No.6022 of 2014 and
for the respondents in FAO No.8934 of 2014.

Mr. Arun Sharma, Advocate
for Mr. T.K. Joshi, Advocate
for the appellant in FAO No.8934 of 2014 and
for the respondent No.5 in FAO No.6022 of 2014.

**K.C. PURI J. (Oral)**

Vide this order, I intend to dispose of FAO No.6022 of 2014, titled as "Mamta and others Vs. Kalu Ram and others" and FAO No.8934 of 2014, titled as "Shri Ram General Insurance Company Limited Vs. Mamta and others."

The appeal, bearing number, FAO No.6022 of 2014, titled as “Mamta and others Vs. Kalu Ram and others” has been directed by the claimants for enhancement of compensation in respect of death of Rajinder, aged 40 years in a motor vehicular accident.

The insurance company has directed the appeal, bearing number, FAO No.8934 of 2014, titled as “Shri Ram General Insurance Company Limited Vs. Mamta and others”, regarding quantum of compensation.

Since, the only dispute is regarding quantum of compensation and as such, other facts need not to be given in detail.

The learned Tribunal has taken the income of deceased as Rs.8000/- per month and the yearly income has been taken as Rs.96000/-. The deceased was working as a driver. The age of the deceased has been taken as 40 years as per postmortem report. 30% has been added in respect of future prospects of the deceased and as such, the income of the deceased has been taken as Rs.1,24,800/-. Since, the claimants were six in number, 1/4th amount has been deducted in respect of personal expenses and as such, annual loss of income has been calculated as Rs.93,600/- per annum. The deceased was 40 years and as such, the multiplier of 14 has been applied and as such, the amount calculated was 13,10,400/-. Another sum of Rs.1,00,000/- was allowed in respect of loss of consortium, Rs.1,00,000/- was allowed in respect of loss of care and guidance for minor children and Rs.25,000, were granted in respect of funeral expenses.

Learned counsel for the appellants/claimants has submitted that future prospects should have been taken to the extent of 50% of the income of the deceased and multiplier of 15 should have been applied according to “Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another” reported in 2009(3) R.C.R. (Civil) 77.

On the other hand, learned counsel for the insurance company has submitted that the deceased was not a permanent employee and as such, future prospects of 30% allowed by the learned Tribunal should have not been allowed. It is further submitted that even, if the future prospects are taking into account, in that case, it can be 30% only.

I have considered the submissions made by learned counsel for both the parties and have gone through the case file as well as the record of the case.

The first and foremost question pointed out is whether the future prospects should be allowed while granting the amount of compensation. This point is not res integra and this Court in “Balbir Kaur and others Vs. State of Haryana” and others in FAO No.3903 of 2012 decided on 15.01.2014, held that future prospects should have been taken into account. Even the Hon'ble Apex Court in **"Smt. Neeta W/o Kallappa Kadolkar and others Vs. The Divisional Manager, MSRTC, Kolhapur"** reported in **2015(1) R.C.R. (Civil) 625** and "**Kanhsingh and another vs. Tukaram and others"** reported in **2015(1) Law Herald 220,** allowed the future prospects. So, I have no hesitation in holding that future prospects has rightly been allowed by the learned Tribunal.

The next question arises whether the future prospects should have been 50% as demanded by the claimants. In this question, future prospects are being granted in respect of self-employed or non-salaried person in view of the authority **"Rajesh and others Vs. Rajbir Singh and others"** reported in **2013(3) R.C.R. (Civil) 170**, in the above-said authority, it has been held that future prospects to the extent of 30% should be allowed, if in case the deceased is in the age group of 40 to 50. The age of the deceased has been taken as 40 years, so, 30% future prospects has rightly been allowed. The amount of compensation in respect of loss of care and guidance of minor has been allowed to the extent of Rs.1,00,000/-. Another sum of Rs.1,00,000/- has been allowed in respect of loss of consortium, another sum of Rs.25,000/- is allowed in respect of funeral expenses, that amount is also strictly in accordance with Rajesh's case (supra) and as such that finding does not call for any interference. The only point remain in the present appeal is in respect of multiplier. In Sarla Verma's case (supra), the multiplier in the age group of 30 to 40 is 15 whereas the multiplier applied by the Tribunal is 14. So, the claimants are held entitled to claim another sum of Rs.93,600/-, keeping in view the multiplier of 15 and in view of the above discussion, the appeal preferred by the insurance company stands dismissed and the appeal preferred by the claimants stands partly accepted. The claimants are further held entitled to claim Rs.93,600/- along with interest @ 7.5% per annum from the date of the appeal till realization in addition to the amount already awarded by the learned Tribunal. The liability to pay the amount shall be same as ordered by the learned Tribunal. Out of the amount of Rs.93,600/-, the amount of Rs.43,600/- shall be paid to the widow. Rs.50,000/- shall be paid to all the minor claimants and the amount of minors shall be deposited in the shape of FDRs in a nationalized bank, in such a manner that the minor will get maximum interest.

A copy of this order be sent to learned Tribunal for compliance.

**(K.C. PURI)**
**30.03.2015** **JUDGE**
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