IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 912 of 2013 (O&M)
Date of Decision:- 21.04.2015

Krishna Devi and another
.....Appellants

Versus

Andeep and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. **Whether Reporters of local papers may be allowed to see the judgment? Yes**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest? Yes**

Present: Mr. J.B. Sharma, Advocate for the appellants.

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

****

SHEKHER DHAWAN, J.

The appellants-claimants have challenged the award dated 03.08.2012, passed by the Motor Accidents Claims Tribunal, Jind (hereinafter to be referred as ‘The Tribunal’), whereby 'The Tribunal' awarded the compensation of ₹2,80,800/- on account of death of Kapil.

2. Taking the case from undisputed facts that on 31.05.2010, Kapil (since deceased) was going to Delhi from Narwana on motor-cycle bearing registration No.HR-32C-7663. The said motorcycle was being driven by Sri Kant and Kapil was pillion rider. They were being followed

by his father Manpal and cousin Baljeet on another motor-cycle. At about 6.15 AM, when they reached near bus stop of village Gatoli on Jind-Rohtak road, in the meantime, canter bearing registration No.HR-56-9471, which was being driven by respondent No.1 came from opposite side while overtaking one Tata-407 vehicle in a rash and negligent manner and hit against the motor-cycle. Resultantly, Kapil and Sri Kant fell down and sustained multiple grievous injuries. They were shifted to PGIMS, Rohtak. Kapil was shifted to Jaipur Golden Hospital, Delhi, where he succumbed to the injuries. The matter was reported to the police. The respondents contested the claim petition. 'The Tribunal' after considering the material and evidence available on file passed the award.

3. Mr. J.B. Sharma, Advocate, learned counsel for the appellants took the plea that there is no dispute on the fact that Kapil was of the age of 18 years and the claimants in this case are parents of the deceased. 'The Tribunal' fell in error while taking the income of parents and determining the amount of compensation. The deduction on account of self dependency has also been taken on higher side. No amount was awarded on account of enhancement of future earnings. So, the award be suitably amended.

4. Learned counsel for the appellants also took the plea that as per law laid down by Hon'ble Supreme Court in case **P.S. Somanathan and others** Vs. **District Insurance Officer and another**, **2011 AIR (SCW) 1313**, for determining the multiplier to be applied, the age of deceased is to be taken into consideration.

5. Mr. Neeraj Khanna, Advocate, learned counsel for respondent No.3-Insurance Company, took the plea that in this case the claimants are parents and deceased was un-married child. The age of the parents is to be taken, so as to determine the amount of compensation for multiplier purposes. The Tribunal has taken the income of the deceased correctly. 1/3rd has been rightly taken on account of self dependency. Multiplier has also been rightly taken. The enhancement on account of future earnings is a matter pending before larger bench of Supreme Court and appellants are not entitled to receive amount of compensation on that account. So, the appeal is without any merit and same is dismissed.

6. Having considered the rival contentions raised by learned counsel for both the parties, this Court is of the considered view that death of Kapil had taken place, who is un-married child of 18 years. Claimants are parents of the deceased, who were aged about 41-43 years respectively. 'The Tribunal' has rightly taken the age of the parents, to be determined factor for applying the multiplier. On this point, 'The Tribunal' had rightly placed reliance upon judgment from Hon'ble three Judges of Hon'ble Apex Court in case **New India Assurance Ltd.** Vs. **Smt. Shanti Pathak and others**, **2007(3) RCR (Civil) 593.**

7. However, 'The Tribunal' has not taken into consideration the fact that deceased was of 18 years of age and within a short time his earnings were to grow considerably and accordingly he was to contribute larger amount to the family. 'The Tribunal' has not taken into consideration the future prospects of earnings, as per ratio of law laid by

Hon'ble Apex Court in case **Rajesh and others** **vs.** **Rajbir Singh and others,** 2013(9) SCC 54. Applying the same principle of law, the income of the deceased and contribution towards the family:-

Income of the deceased	₹3,600/-
Add 30% on account of future prospects of earnings	₹1,080/-
Sub-total	₹3,600 + ₹1,080 = ₹4,680/-
Less 1/3rd on account of self dependency	₹4,680 - ₹1,560 = ₹3,120/-
Annual Loss of income	₹3,120 x 12 = ₹37,440/-
Applying multiplier of 13	₹37,400 x 13 = ₹4,86,720
Funeral Expenses	₹25,000/-
Total compensation	₹4,86,720 + ₹ 25,000= ₹5,11,720
Enhanced amount	₹5,11,720 – ₹2,90,800 = ₹2,20,920/-

8. The enhanced amount of compensation of ₹2,20,920/- shall be payable within a period of one month, failing which, the appellants shall be entitled to recover interest @ 7.5% per annum from today. However, the remaining conditions regarding payment of interest and disbursal amount of awarded compensation shall be unaltered.

9. Accordingly, the present appeal is accepted partly.

(SHEKHER DHAWAN)
JUDGE

April 21, 2015
naresh.k