IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.5341 of 2015 (O&M)
Date of Decision: September 10, 2015.

United India Insurance Company Ltd.

.......APPELLANT(s).

VERSUS

Shakuntala Devi and others

......RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rajesh K. Sharma, Advocate
for the appellant (s).

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SURINDER GUPTA, J.

This is an appeal against the award dated 18.04.2015 passed by Motor Accident Claims Tribunal, Kurukshetra allowing the compensation of ₹12,20,120/- for the death of Satpal in a motor accident with Truck bearing registration No.HR-56A-5485 driven by respondent No.4.

As the challenge to the award has been made only on the point of quantum of compensation, the facts of the case are not being discussed in detail.

Learned counsel for the appellant-insurance company has argued that the Tribunal has taken the income of the deceased, who was an agriculturist and was running a dairy, as ₹8,100/- per month on the basis of pay/wages fixed by the Deputy Commissioner, Kurukshetra as per order dated 01.07.2014. He argues that these pay/wages have been fixed for the employees who are to be paid out of contingencies of various departments. The deceased was not drawing any salary from any department and in the absence of any evidence/proof regarding income of the deceased, the Tribunal has wrongly relied upon the order dated 01.07.2014 passed by the Deputy Commissioner, Kurukshetra. While taking notional income of an unskilled worker, reference could be made to the minimum wages fixed by the Government of Haryana vide notification dated 01.01.2014, fixing minimum wages of an unskilled labourer as ₹5,547/-

On perusal of the order dated 01.07.2014 passed by the Deputy Commissioner, Kurukshetra and the copy of notification issued by Government of Haryana, I find no merits in the submission made by learned counsel for the appellant. The minimum wages are prescribed for the workers in the factories where besides minimum wages, other allowances are also allowed. It is well-known fact that these days, even a daily wage labourer is not available for wages of less than ₹300/- per day. The salary as per the D.C. rates is the maximum rate including all allowances which are payable to the workers on various posts.

In view of the above, the Tribunal has committed no error while applying the wages fixed by the Deputy Commissioner payable to a driver.

Learned counsel for the appellant further submits that the Tribunal has wrongly allowed 30% addition in his monthly income towards future prospects, particularly when the matter is under consideration before the Hon'ble Apex Court as per reference made in case of ***National Insurance Company Limited Vs. Pushpa Appeal (C) No.8058 of 2014 decided on 02.07.2014 (MANU/SC/1246/2014).***

In the case of ***National Insurance Company Limited Vs. Pushpa (supra)***, while differing with the view taken in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (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 (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 30% addition 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.

This appeal has no merits. Dismissed.

(SURINDER GUPTA)
JUDGE

September 10, 2015.
Sachin M.