

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

FAO No. 584 of 2015

Date of decision : 17.03.2015

Shri Ram General Insurance Company Limited

.....Appellant

vs

Kamla Devi & others

.....Respondents

Coram : Hon'ble Mr. Justice Kuldeep Singh

Present : Mr. Rajbir Singh, Advocate for
Mr., Sanjeev Goyal, Advocate
for the appellant.

Kuldeep Singh, J. (Oral)

In this case Kailash Chand, aged about 34 years, who was working as Driver, while driving Alto Car bearing registration No. HP-52-A-6667 met with an accident with a truck bearing No. HR-37-C-0339 and died. The Tribunal awarded a sum of ₹ 13,77,000/- to legal heirs of Kailash Chand deceased. The Tribunal treated the income of the deceased to be ₹ 6,000/- per month and applied the multiplier of 16 and further awarded loss of future prospectus at the rate of 50% of the annual income as per the law laid down by the Hon'ble Supreme Court in the case of ***Rajesh and others vs. Rajbir Singh and others, 2013 ACJ 1403 (SC)***.

Learned counsel for the Insurance Company has assailed the award mainly on two grounds (i) assessment of the income of deceased on higher side and (ii) grant of future prospectus. It has been argued that the deceased was working in Himachal Pradesh and where the wages of unskilled worker are 4900/- per month. I am of the view that a driver does not only get the salary but normally he gets additional income as daily charges or night charges etc., therefore, assessing the income of the deceased to be 72,000/- + 36,000/- = ₹1,08,000/- per annum cannot be called improper.

So far as the future prospectus are concerned, in ***Rajesh and others*** case (supra) the Apex Court had ruled that even for a self-employed person an addition of 50% of his income is to be made to his actual income towards future prospectus. Learned counsel argued that the Hon'ble Supreme Court on 2.7.2014 in ***Special Leave to Appeal (C). CC No.(s) 8058 of 2014 titled National Insurance Company Limited Vs. Pushpa & Others***, referred the matter to the Larger Bench. However, the future prospectus law as laid down in the ***Rajbir's*** case (supra) has not been set aside. I am of the view that the reasoning given in ***Rajbir's*** case (supra) is near reality. The ruling is to be followed unless the same is set aside by the Apex Court.

Learned counsel further argued that verdict of ***Reshma Kumari & others vs. Madan Mohan & another, 2013(2) RCR Civil 660*** case should be followed. I am of the view that in ***Rajbir's*** case (supra), the law laid down earlier was further elaborated and, therefore, the same is to be followed.

It being so, no interference with the award passed by the learned Tribunal is called for. Hence, the appeal is dismissed.

(Kuldip Singh)
Judge

17.03.2015
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