

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.9240 of 2014 (O&M)
Date of Decision: September 18, 2015.

Raj Kaur and others

.....APPELLANT(s).

VERSUS

Sonu and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjeev Patiyal, Advocate
for the appellant (s).

Mr. Rajneesh Malhotra, Advocate for
Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company.

SURINDER GUPTA, J.

CM-25683-CII-2014

Heard. There is delay of 89 days in filing this appeal.

2. Learned counsel for the appellants submits that the appellant s being illiterate persons were not aware of the limitation for filing the appeal. They came to know about the fact that the delay had occurred on contacting their counsel. However, the delay is not intentional.

3. In view of the submission made by learned counsel for the appellant and keeping in view the fact that the appellants have not gained in any manner, due to delay in filing this appeal, the application is allowed. The delay of 89 days in filing the appeal is, hereby, condoned.

FAO-9240-2014

4. This is appeal against the award dated 05.02.2014 passed by Motor Accident Claims Tribunal, Karnal (later referred to as the Tribunal), whereby the appellants-claimants were allowed compensation to the tune of

₹8,31,000/- on account of death of Ajmer Singh (later referred to as the deceased) in a motor accident due to rash and negligent driving of respondent No.1 while driving truck bearing registration No.HR-39-B-2222 (later referred to as the offending vehicle).

5. Since the appeal has been filed by the claimants for enhancement of compensation, therefore, the facts of the case are not being discussed in detail.

6. Learned counsel for the appellants-claimants has argued that the Tribunal has not allowed any compensation towards future prospects. Keeping in view the age of the deceased, which was 48 years, addition of 30% was required to be made in the income of the deceased towards future prospects. He has placed reliance on observations in case of ***Rajesh and others Vs. Rajbir and others (2013) 9 SCC 54 and Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447***. The Tribunal has allowed an amount of ₹5,000/- towards loss of consortium to claimant No.1 and ₹10,000/- towards last rites and funeral expenses, which should be enhanced to ₹1,00,000/- and ₹25,000/- respectively as per the observations in case of ***Rajesh and others Vs. Rajbir and others (supra)***.

7. Learned counsel for the respondent-insurance company has argued that the matter regarding grant of future prospects 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(MANU/SC/1246/2014)***. He has further argued that the grant of compensation under the conventional heads falls within the discretionary powers of the Tribunal. The Tribunal has

already allowed compensation towards loss of consortium and funeral expenses, which calls for no further enhancement.

8. The age of the deceased was 48 years at the time of his death as per post-mortem report Ex.P7. The Tribunal has taken the income of the deceased as ₹6,000/- per month. Keeping in view the number of dependents, the Tribunal has rightly deducted 1/3rd of the income of deceased towards his personal expenses.

9. The matter regarding grant of compensation towards future prospects is pending before the Hon'ble Apex Court as reference was made to a larger Bench of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pushpa and others (supra)***, on 02.07.2014 wherein 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.”

10. 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 claimants are also entitled to 30% addition in the income of the deceased towards future prospects.

11. The Tribunal has allowed ₹5,000/- towards loss of consortium to claimant No.1. This amount as per the observations in ***Rajesh and others Vs. Rajbir and others (supra)***, is enhanced to ₹1,00,000/- and the amount of last rites and funeral expenses which has been allowed as ₹10,000/- is also enhanced to ₹25,000/-. The claimants are also entitled to ₹1,00,000/- towards loss of love and affection. In this way, the claimants shall be entitled to compensation tabulated as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹6000 per month
(ii)	30% of (i) above to be added as future prospects	(₹6000+ ₹2000)= (₹8000 per month)
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	(₹8000-₹2667)= ₹5333/- per month
(iv)	Compensation after applying multiplier of 13	(₹5333/-X12X13) = ₹831948
(v)	Loss of love and affection	₹1,00,000/-
(vi)	For loss of consortium	₹100000
(vii)	Funeral expenses and last rites	₹25000
<i>Total</i>		₹10,56,948

12. The appeal is accepted. The award of the Tribunal is modified and the appellants-claimants are allowed compensation of ₹10,56,948/- for

the death of Ajmer Singh. The enhanced amount of compensation will carry interest @7.5% per annum from the date of filing of the petition till actual realization. The amount of enhanced compensation shall be shared in the ratio as allowed by the Tribunal. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

September 18, 2015.
deepak

(SURINDER GUPTA)
JUDGE