

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

(1)

**FAO No.811 of 1992
Date of decision : 16.12.2016**

Rakesh Kumar

.....Appellant

Versus

State of Punjab and others

...Respondents

(2)

**FAO No.812 of 1992
Date of decision : 16.12.2016**

Shiv Nath

.....Appellants

Versus

State of Punjab and others

...Respondents

(3)

**FAO No.813 of 1992
Date of decision : 16.12.2016**

Smt. Chanda Devi and others

.....Appellants

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present : Mr. Inderjit Singh, Advocate for appellants in all the appeals.

Mr. Ajaib Singh, Addl. A.G. for
the State of Punjab-respondents.

DARSHAN SINGH, J.

This judgment shall dispose of all the three appeals captioned above, which have been arisen out of the same award dated 03.12.1991 passed by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the “Tribunal”), whereby three separate claim petitions filed by the appellants in all the FAOs under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”) for grant of compensation have been disposed of by a common award. The claim petition of appellant-claimant Rakesh Kumar in FAO No.811 of 1992 has been dismissed. In FAO No.812 of 1992, appellant-claimant Shiv Nath has been awarded a sum of ₹36,000/- on account of the injuries suffered by him. In FAO No.813 of 1992, appellants-claimants Smt. Chanda Devi and others have been awarded a total sum of ₹1,15,200/- on account of death of Raghuvir Shaw, in the motor vehicular accident which took place on 02.12.1989.

2. FAO No.811 of 1992 has been filed by appellant-claimant Rakesh Kumar to assail the award and to grant him the adequate amount of compensation on account of damage to his tractor-trolley. FAOs No.812 and 813 of 1992 have been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and have gone through the record of the case meticulously.

4. In FAO No.813 of 1992, learned counsel for the

appellants contended that deceased Raghuvir Shaw was earning ₹15,000 per month. The learned Tribunal has not awarded any future prospects to the income of the deceased. The claimants have also been awarded very less amount towards the conventional heads. The compensation of only ₹ 1,15,200 awarded by the learned Tribunal on account of death of Raghuvir Shaw is highly inadequate and unjust.

5. On the other hand, learned Additional, Advocate General for the State of Punjab contended that the deceased was just an unskilled labourer. No future prospects were required to be added to the income of the deceased. The income of the deceased has been rightly determined by the learned Tribunal to be ₹900/- per month. Appropriate amount of compensation has been awarded by the learned Tribunal.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has awarded total ₹1,15,200/- as compensation on account of death of Raghuvir Shaw in this motor vehicular accident. The learned Tribunal has treated the deceased to be an unskilled worker and has determined the income of the deceased to be ₹900/- per month. In view of the fact that the accident has taken place in December, 1989, the income so determined by the learned Tribunal does not require any interference. But the learned Tribunal has not added any future prospects to the income of the deceased. The deceased was a young man of 24 years of age. He was hale and hearty. His income was bound to increase with the passage of time. So, the future prospects

should have been added to the income of the deceased. In view of the age of the deceased, 50% of his income is required to be added towards future prospects. The total income of the deceased comes to ₹1350/- per month i.e. ₹16,200/- per annum. There were four dependent family members upon the income of the deceased, so 1/4th of his income shall be deducted towards his personal and living expenses. The remainder comes to ₹12,150/-. The deceased was only 24 years of age so the multiplier of 18 shall be applicable. Thus, the loss of dependency comes to ₹2,18,700/-. The learned Tribunal has not awarded any amount of compensation to the claimants towards loss of consortium, loss of love and affection and funeral expenses. Keeping in view the fact that the accident is of the year 1989, a lump sum amount of ₹1,25,000/- is awarded for these heads. So, the total amount of compensation payable to the appellants-claimants in FAO No.813 of 1992 comes to ₹3,43,700/-.

8. In FAO No.811 of 1992 appellant-claimant Rakesh Kumar has claimed compensation on account of damage to the tractor-trolley bearing registration No.PUT-4908. The appellant-claimant has not produced any cogent evidence to establish the damage to the tractor-trolley. No oral or documentary evidence has been adduced except the statement of Ramesh Kumar. Even claimant Rakesh Kumar himself did not step into the witness box. The claimant has neither brought on file any survey report to show the damage caused to the tractor-trolley in this accident nor any estimate regarding repair and the bill to show the

expenses actually incurred on the repair of tractor-trolley. In the absence of that evidence, the appellant-claimant of FAO No.811 of 1992 is not entitled for any amount of compensation. So, his claim petition has been rightly dismissed by the learned Tribunal.

9. In FAO No.812 of 1992, appellant-claimant Shiv Nath has claimed compensation to the tune of ₹2,00,000/- on account of the injuries suffered by him in this accident. The learned Tribunal has awarded him a total compensation of ₹36,000/-. Learned counsel for the appellant contended that no amount has been awarded to the claimant towards special diet, attendant charges and transportation etc. Thus, he pleaded that the amount of compensation awarded is not just.

10. On the other hand, learned Addl. A.G. for the respondents contended that the learned Tribunal has awarded just compensation under all the relevant heads and thus, no enhancement is permissible.

11. I have duly considered the aforesaid contentions.

12. Learned Tribunal has awarded a sum of ₹11,000/- towards medical charges, ₹15,000/- towards disability and ₹10,000/- towards pain and suffering. Learned Tribunal has not awarded any amount towards loss of income, special diet, attendant charges and transportation. A sum of ₹12,500/- is awarded to appellant-claimant Shiv Nath under all these heads. So, now he will be entitled to a sum of ₹ 48,500/- as compensation on account of the injuries suffered by him.

13. Thus, keeping in view my aforesaid discussion, FAO No.811 of 1992 filed by appellant-claimant Rakesh Kumar has no merits and the same is hereby dismissed. FAOs No.812 and 813 of 1992 filed by the appellants-claimants are hereby partly allowed. The amount of compensation payable to the appellant-claimant Shiv Nath in FAO No.812 of 1992 is enhanced to ₹48,500/- from ₹36,000/- as awarded by the Tribunal. The amount of compensation payable to the appellants-claimants Smt.Chanda Devi and others in FAO No.813 of 1992 is enhanced to ₹3,43,700/- from ₹1,15,200/- as awarded by the Tribunal. The enhanced amount of compensation be deposited with the learned Tribunal within a period of 60 days from today, failing which the appellants-claimants shall be entitled to interest @ 7.5% per annum from the date of filing the claim petition till realisation. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

14. As the matter with respect to future prospects has been referred to the Larger Bench of the Hon'ble Apex Court in case ***National Insurance Company Vs. Pushpa, 2015 (9) SCC 166***, in order to safeguard the interest of respondents, the amount of compensation under the head future prospects shall be disbursed to the claimants against adequate security in the form of sufficient indemnity bonds to the satisfaction of the learned Tribunal/executing Court, wherein the claimants will undertake that if the Hon'ble Apex Court adjudicates that

the casual labourers/persons not holding the permanent jobs will not be entitled to the future prospects, then they will be bound to refund the amount of future prospects received by them on moving the requisite application by the respondent-Insurance Company and the learned Tribunal will be competent to take the steps without making any reference to this Court.

16.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No