IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.5252 of 2002

Date of decision : 09.09.2016

Smt. Murti Devi and others

......Appellants

Versus

Kanwar Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sanjeev Kodan, Advocate for appellant.

Mr. Aseem Aggarwal, Advocate for respondent No.2.

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DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 31.08.2002 passed by the learned Motor Accidents Claims Tribunal, Jhajjar (hereinafter called the "Tribunal") vide which the appellants-claimants have been awarded compensation to the tune of Rs.2,11,000/- on account of death of Jai Singh in the motor vehicular accident, which took place on 17.08.1999.

2. The present appeal has 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 paper-book carefully.

4. Initiating the arguments, learned counsel for the appellants contended that the deceased was 22 years of age at the time of the accident. The learned Tribunal has not awarded any future prospects towards the

income of the deceased. The multiplier has also been applied wrongly and no amount on account of loss of love and affection has been awarded to his parents. The funeral expenses have also been awarded very less. Thus, he contended that just amount of compensation has not been awarded.

5. On the other hand, learned counsel for respondent No.2-Insurance Company contended that there is no evidence on record to establish that the deceased was having any permanent job getting regular increments. So, no future prospects were required to be added to the income of the deceased. He further contended that suitable amount has been given to the claimants under other conventional heads.

6. I have duly considered the aforesaid contentions.

7. As per the case of the claimants, deceased Jai Singh was working as a photographer. He used to run his own photo studio and was earning Rs.8000/- per month but the learned Tribunal on appreciation of the evidence came to conclusion that the appellants have not been able to establish that deceased was running photo studio, but the deceased being hale and hearty person and capable of working as a manual labourer, was presumed to be earning Rs.2200/- per month. However, the learned Tribunal has not awarded any future prospects towards the income of the deceased. Even though the deceased was just a casual worker but still his income was certainly bound to increase with the passage of time as it is fact of common knowledge that income of nobody remain stagnant for whole of his life and it increases with the passage of time that is why even the government revises the minimum wages of the unskilled/skilled workers periodically.

So, the future prospects should have been added to the income of the deceased. The deceased was only 22 years of age at the time of his death. So, 50% of the income of the deceased is required to be added to his income. His total monthly income comes to Rs.3300/- *i.e.* Rs.39,600/- per annum.

8. The claimants in this case are the parents and brother of the deceased. As per the law laid down by Hon'ble Apex Court in case ***Sarla Verma and others Vs. Delhi Transport Cooperation and another (2009) 6 SCC 121***, the siblings are considered to be the dependent upon the father. The deceased was a bachelor, so 50% of his income shall be deducted towards his personal and living expenses. The remainder comes to Rs.19,800/- per annum. The deceased was 22 years of age at the time of his death, so the multiplier of 18 shall be applicable. The loss of dependency comes to Rs.3,56,400/-.

9. In addition to the aforesaid amount, the parents of the deceased shall also be entitled to a sum of Rs.1,00,000/- on account of loss of love and affection of their son. They will be further entitled to Rs.25,000/- towards funeral expenses. The total amount of compensation payable to the claimants comes to Rs.4,81,400/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to the appellants-claimants is enhanced to Rs.4,81,400/- from Rs.2,11,000. 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 at the rate as awarded by the learned Tribunal from the date of filing the claim petition till realisation. The liability to pay the enhanced amount and apportionment of the amount of the compensation between the claimants shall be as determined by the learned Tribunal.

11. 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 respondent No.3-Insurance Company, 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.

09.09.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned	**:**	**Yes / No**
Whether reportable	**:**	**Yes / No**