

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

FAO No.692 of 2000

Date of decision : 25.05.2016

Smt. Seema and others

.....Appellant

Versus

Bijender Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. M.S. Kathuria, Advocate for appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate respondent No.2.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 02.11.1999, 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.3,07,200/- on account of death of Naurang in the motor vehicular accident which took place on 15.02.1998.

2. The present appeal has been filed by the appellants-claimants for enhancement of the amount of compensation.
3. Learned counsel for the appellants contended that no future

prospects have been given towards the income of the deceased. The deceased was a young man of 20 years of age. 50% of his income should have been added towards future prospects.

4. He further contended that even multiplier has been applied wrongly. No loss of consortium has been granted to the widow of the deceased and no funeral expenses have been awarded. Thus, he contended that the learned Tribunal has granted highly inadequate compensation.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the Tribunal has awarded the just compensation and the impugned award does not call for any interference by this Court.

6. I have duly considered the aforesaid contentions.

7. The appellants-claimants have filed the claim petition for grant of compensation on account of death of Naurang, the husband of appellant-claimant No.1 Smt. Seema and son of appellants-claimants No.2 & 3.

8. Deceased Naurang was 20 years of age at the time of his death and was an agriculturist by profession. The learned Tribunal has taken the income of the deceased to be Rs.2400/- per month, but the learned Tribunal has not awarded any future prospects to the income of the deceased. It is the fact of common knowledge that even the income of the labourer increases with the passage of time. Deceased Naurang was a young man of 20 years of age. So, there was every possibility of appreciation of his income in due course. So, 50% of the income of the

deceased is required to be added as future prospects. The total monthly income of the deceased comes to Rs.3600/- *i.e.* Rs.43,200/- per annum. 1/3rd of the income of the deceased is to be deducted towards his personal and living expenses. The remainder comes to Rs.28,800/-. The learned Tribunal has wrongly applied the multiplier of 16, whereas as per the age of the deceased, the multiplier of 18 should have been applicable. Thus, the loss of dependency comes to Rs.5,18,400/- (28,800 x 18).

9. The learned Tribunal has not awarded any claim towards loss of consortium to the widow, loss of love and affection to the parents and funeral and transportation expenses. Appellant-claimant No.1 Smt. Seema, widow of Naurang shall be entitled to a sum of Rs.1,00,000/- on account of loss of consortium. Appellant-claimants No.2 & 3, the parents of the deceased shall be entitled to a sum of Rs.1,00,000/- on account of loss of love and affection to their son. The appellants-claimants shall also be entitled to a sum of Rs.25,000/- on account of funeral and transportation charges. The total amount of compensation payable to the appellants-claimants comes to Rs.7,43,400/-.

10. The appellants-claimants have claimed the compensation to the tune of Rs.5,00,000/- for the death of Naurang in the present motor vehicular accident, but the law is well settled that it is the duty of the Tribunal to award just compensation. There is no restriction on the Court that it can only award the amount of compensation claimed by the claimants in the claim petition. If on computation of the amount of compensation as per law, the just and appropriate compensation comes to more than the

amount claimed by the claimant, the same can certainly be awarded. Three Judges Bench of Hon'ble Apex Court in case ***Nagappa Vs. Gurudayal Singh AIR 2003 SC 674***, has laid down that it is the duty of the Tribunal to award just and appropriate compensation. There is no restriction that it can award only up to the amount claimed by the claimants. In case ***Ibrahim Vs. Raju and others 2011(4) RCR (Civil) 863***, again the Hon'ble Apex Court has laid down that Tribunal can award compensation more than what was claimed by the claimant. In that case the claimants had claimed the compensation to the tune of Rs.3,00,000/-, the Hon'ble Supreme Court has enhanced the amount of compensation to the tune of Rs.6,00,000/-. Again in case ***Sanobanu Nazirbhai Mirza and others Vs. Ahmedabad Municipal Transport Service 2013(4) RCR (Civil) 732***, the same legal position has been reiterated that Tribunal/Court can award compensation more than that claimed by the claimants.

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby allowed. The amount of compensation is enhanced to Rs.7,43,400/- from Rs.3,07,200/- as awarded by the learned Tribunal. The respondent will deposit the enhanced amount of compensation 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 enhanced amount shall be shared equally by all the appellants.

25.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**