

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

**FAO No.2934 of 2002
Date of decision : 02.02.2016**

Parvesh Kumari and another

.....Appellants

Versus

Ramphal 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. Rakesh Gupta, Advocate for appellant.

Mr. Vinod Kumar Arya, Advocate for
Mr. Mukesh Kaushik, Advocate for respondent No.2.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 20.02.2002 passed by the learned Motor Accidents Claims Tribunal, Kaithal (hereinafter called the 'Tribunal'), vide which claimants have been awarded a compensation of Rs.2,54,800/- on account of death of Kuldeep Singh in the motor vehicular accident, which took place on 21.04.2001.

2. It was pleaded that deceased Kuldeep Singh was earning Rs.8000/- per month and was 22 years of age at the time of the accident.

3. The claim petition filed by the appellants-claimants was contested by respondent No.1 driver-cum-owner and respondent No.2 the Oriental Insurance Company Ltd. by filing separate written statements.

4. The present appeal has only been preferred for enhancement of the compensation.

5. I have heard Mr. Rakesh Gupta, Advocate, learned counsel for the appellants, Mr. Vinod Kumar Arya, Advocate for Mr. Mukesh Kaushik, Advocate, learned counsel for respondent No.2 and gone through the paper-book carefully.

6. Learned counsel for the appellants contended that the income of the deceased has only been taken to be Rs.1800/- per month. Even a labourer can easily earn Rs.4500/- per month. He further contended that the deceased was only 22 years of age at the time of the accident but no future prospects has been awarded. The multiplier has also been wrongly applied. He further contended that no amount has been awarded towards loss of love and affection and very less amount has been awarded towards loss of consortium. Thus, he contended that the compensation granted by the learned Tribunal is not just and appropriate.

7. On the other hand, learned counsel for the respondent contended that the claimants could not prove the income of the deceased. He was only a casual labourer. So, there was no question of granting the future prospects. He further contended that the compensation under other heads have also been correctly determined by the learned Tribunal.

8. I have duly considered the aforesaid contentions.

9. The accident has taken place on 21.04.2001. The

claimants have alleged that the deceased was working in cold storage as Foreman and was getting Rs.8000/- per month as salary. They also examined PW2 Dalip Singh, Director, Baba Shiva Cold Storage Private Ltd., village Lalalpar, but his testimony was not supported by any documentary evidence. So, that was rightly ignored by the learned Tribunal. But the income of the deceased has only been taken by the learned Tribunal just Rs.1800/- per month, treating the deceased to be a casual labourer. The said income determined by the learned Tribunal is totally inadequate as even a casual labourer in those days could have easily earned Rs.3000/- per month. So, the income of the deceased shall be taken to be Rs.3000/- per month.

10. The Tribunal has not awarded any future prospects towards the income of the deceased. Though the deceased was only a casual labourer but in view of the law laid down by the Hon'ble Apex Court in cases ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54*** and ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the claimants were entitled to 50% future prospects towards the income of the deceased. By adding the future prospects of 50% to the income of the deceased it comes to Rs.4500/- per month. 1/3rd of this amount is to be deducted towards personal and living expenses of the deceased. The remainder comes to Rs.3000/-.

11. The age of the deceased was 22 years. As per the law laid down by the Hon'ble Apex Court in case ***Sarla Verma and others Vs. Delhi Transport Cooperation and another (2009) 6 SCC 121***, the multiplier of 18 shall be applicable. So, the multiplicand comes to

Rs.6,48,000/- (3000 X 12 X 18).

12. The learned Tribunal has not awarded any amount towards loss of consortium to appellant-claimant No.1. As per the law laid down in ***Rajesh and others Vs. Rajbir Singh and others*** (supra), the claimant No.1 is entitled to Rs.1,00,000/- towards loss of consortium. Claimant No.2 is the mother of the deceased. She has not been awarded any sum towards love and affection. She will be entitled to Rs.1,00,000/- towards loss of love and affection of her son. Now the total amount of award comes to Rs.8,58,000/- (6,48,000 + 1,00,000 + 1,00,000 + 10,000).

13. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.8,58,800/- instead of Rs.2,54,800/- awarded by the learned Tribunal. The claimants shall be entitled to interest @ 7.5% per annum on the enhanced amount from the date of filing the petition till realisation. The mode of disbursement of the awarded amount and the liability shall remain as determined by the learned Tribunal.

02.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**