

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

**FAO No.2990 of 2003 (O&M)
Date of decision : 01.02.2016**

Mrs. Nirmal Rehan and others

.....Appellants

Versus

Harbans Singh and others

...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: Ms. Nitika Jindal, Advocate for
Mr. Vishal Gupta, Advocate for appellants.

Mr. Ravinder Jain, Advocate for respondent No.2.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 30.10.2002, passed by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the 'Tribunal'), vide which the appellants-claimants were awarded a compensation of Rs.6,65,000/- along with interest @ 9% per annum from the date of filing the petition till the recovery of the awarded amount.

2. The appellants-claimants have filed the claim petition

under Section 166 of the Motor Vehicles Act, 1988 (hereinafter called the 'Act') for grant of compensation to the tune of Rs.25,00,000/- on account of death of Rajinder Parshad Rehan in the motor vehicular accident, which took place on 16.11.1998. It was pleaded that at the time of the accident, he was 51 years of age and his monthly income was Rs.10,500/-.

3. The claim petition was contested by the respondents by filing the separate written statements.

4. The learned Tribunal has awarded a sum of Rs.6,65,000/- as compensation to the claimants on account of death of Rajinder Parshad Rehan in this motor vehicular accident.

5. Dissatisfied with the quantum of compensation, the claimants have preferred the present appeal.

6. I have heard Ms. Nitika Jindal, Advocate for Mr. Vishal Gupta, Advocate, learned counsel for the appellants, Mr. Ravinder Jain, Advocate, learned counsel for respondent No.2, Mr. Neeraj Khanna, Advocate for Mr. Ravinder Arora, Advocate, learned counsel for respondent No.3 and gone through the paper-book carefully.

7. Learned counsel appearing for the appellants contended that no future prospects have been granted by learned Tribunal while calculating the amount of compensation. The deceased was 51 years of age and was entitled to 15% future prospects towards his income as per the law laid down by the Hon'ble Apex Court in case ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54***. She further contended that learned Tribunal has wrongly applied the multiplier of 9, which should have been of 11 as per the age of the deceased. She further

contended that the loss of consortium has also been granted only Rs.10,000/-. The learned Tribunal has awarded only Rs.7000/- towards funeral expenses. Thus, she contended that the amount of compensation awarded by the learned Tribunal is inadequate.

8. On the other hand, learned counsel for the respondents contended that the learned Tribunal has taken into consideration all the heads for computing the compensation. The compensation assessed by the learned Tribunal is just and appropriate.

9. I have duly considered the aforesaid contentions.

10. I found considerable substance in the contentions raised by learned counsel for the appellants. Deceased Rajinder Parshad Rehan was working as Regional Accounts Officer Grade-I in the office of the Accountant General, Punjab. So, he was a government employee. Learned Tribunal has determined the income of the deceased as Rs.9000/- per month. No fault can be found with the said determination of the income of the deceased. The date of birth of the deceased as per the official/service record was 28.10.1946. Thus, on the date of the accident, he was little more than 52 years of age. The Hon'ble Apex Court in case ***Rajesh and others Vs. Rajbir Singh and others*** (supra) has laid down as under :-

“In Sarla Verma's case (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age

group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter.”

11. As per the aforesaid ratio of law laid down by the Hon'ble Apex Court, the learned Tribunal was required to add 15% of the income of the deceased towards future prospects. By adding 15% future prospects the monthly income of the deceased comes to Rs.10,350/- (9000+1350). 1/3rd income of the deceased was to be deducted towards his personal and living expenses. So, the remainder comes to Rs.6900/- (10350 - 3450). The annual income of the deceased comes to Rs.82,800/-.

12. The learned Tribunal has applied the multiplier of 9. The age of the deceased was little more than 52 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 11 should have been applied. So, the multiplicand comes to Rs.9,10,800/- (82800 x 11).

13. The learned Tribunal has awarded only a sum of Rs.10,000/- towards loss of consortium, which is inadequate and claimant No.1 shall be entitled to Rs.1,00,000/- towards loss of consortium. The learned Tribunal has awarded Rs.7000/- towards funeral expenses, which are enhanced to Rs.25,000/-. So, the total amount of compensation comes to Rs.10,35,800/-. So, there will be net increase of Rs.3,70,800/- over and above the amount of compensation awarded by the learned Tribunal.

14. Thus, keeping in view my aforesaid discussion, the

present appeal is hereby partly allowed. The amount of compensation awarded to the claimants by the learned Tribunal is enhanced by Rs.3,70,800/- raising the total amount of compensation to Rs.10,35,800/- instead of Rs.6,85,000/- awarded by the learned Tribunal. The claimant shall be entitled to the interest at the rate determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount and the mode of disbursement shall be as per the award passed by the learned Tribunal.

01.02.2016

sunil yadav

(DARSHAN SINGH)
JUDGE