

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

FAO No.4441 of 2009

Date of decision : 02.09.2016

Smt. Sarvishtha and others

.....Appellant

Versus

Panchu Mondal and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Rajender Chhokar, Advocate for appellants.

Mr. R.C. Gupta, Advocate for
respondent No.3- Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 22.04.2009 passed by the learned Motor Accidents Claims Tribunal, Sonipat (hereinafter called the “Tribunal”) vide which the appellants-claimants have been awarded compensation to the tune of Rs.4,81,052/- on account of death of Manoj in the motor vehicular accident, which took place on 08.11.2007.

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 learned Tribunal has not awarded any future prospects

towards the income of the deceased. The deduction towards his personal and living expenses have also been deducted wrongly. Very less amount of compensation has been awarded under the other conventional heads. Thus, he contended that the compensation awarded by the learned Tribunal is inadequate.

5. On the other hand Mr. R.C. Gupta, Advocate, learned counsel for respondent No.3- 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 Manoj was working as a driver and was also doing the agricultural work. It is alleged that he used to earn Rs.12,000/- per month. However, on appreciation of the evidence brought on record, the learned Tribunal has determined the income of the deceased to be Rs.3000/- per month. The learned Tribunal has not added any future prospects to the income of the deceased. The deceased was a young man of 22 ½ years of age. He was hale and hearty. His income was bound to increase with the passage of time. It is a fact of common of common knowledge that the income of even a labourer increases with the passage of time that is why the government periodically revises the minimum wages. So, the future prospects are required to be added to the income of the deceased. Deceased Manoj was 22 ½ years of age at the time

of death in this accident so 50% of his income shall be added towards the future prospects. His total monthly income comes to Rs.4500/- i.e. Rs.54,000/- per annum.

8. Deceased Manoj had six dependents i.e. his widow, three minor children, mother and father. So, 1/4th of his income shall be deducted towards his personal and living expenses. The remainder comes to Rs.40,500/-. In view of the age of the deceased, the multiplier of 18 would be applicable, so the loss of dependency comes to Rs.7,29,000/-.

9. In addition to the aforesaid amount, the appellant-claimant No.1 Smt. Sarvishtha, the widow of the deceased shall be entitled to Rs.1,00,000/- towards loss of consortium. The minor children of the deceased shall also be entitled to Rs.1,00,000/- towards loss of love, care and guidance. The mother of the deceased shall also be entitled to Rs.1,00,000/- towards loss of love and affection of her son. The claimants shall also be entitled to Rs.25,000/- towards funeral and last rites expenses. The total amount of compensation comes to Rs.10,54,000/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.10,54,000/- from Rs.4,81,052. The claimants shall also be entitled to interest on the enhanced amount of compensation at the rate determined by the learned Tribunal in the impugned award from the date of filing of 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 per the amount awarded 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.

02.09.2016*sunil yadav***(DARSHAN SINGH)
JUDGE****Whether speaking/reasoned : Yes / No****Whether reportable : Yes / No**