

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

(1)

**FAO No.4874 of 2010
Date of decision : 28.11.2016**

Kalasho Devi and others

.....Appellants

Versus

Gurpreet Singh and another

...Respondents

(2)

**FAO No.5124 of 2010
Date of decision : 28.11.2016**

Raj Bala and others

.....Appellants

Versus

Gurpreet Singh and another

...Respondents

(3)

**FAO No.5125 of 2010
Date of decision : 28.11.2016**

Radha Devi and others

.....Appellants

Versus

Gurpreet Singh and another

...Respondents

(4)

**FAO No.5126 of 2010
Date of decision : 28.11.2016**

Geeta Devi and others

.....Appellants

Versus

Gurpreet Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present : Ms. Ekta Thakur, Advocate for the appellants
in all the appeals.

Mr. M.B. Jain, Advocate for respondent No.2
in all the appeals.

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DARSHAN SINGH, J.

This judgment shall dispose of all the four appeals captioned above which have been arisen out of the same award dated 06.02.2010 passed by the learned Motor Accidents Tribunal, Chandigarh (hereinafter called the “Tribunal”), whereby the appellants of FAO No.4874 of 2010 have been awarded compensation to the tune of ₹1,85,000/- on account of death of Ravi alias Ravinder; appellants -claimants of FAO No.5124 of 2010 have also been awarded compensation to the tune of ₹1,85,000/- on account of death of Vijay Verma; appellants-claimants of FAO No.5125 of 2010 have been awarded compensation to the tune of ₹3,34,000/- on account of death of Giani Ram and appellants-claimants of FAO No.5126 have been awarded compensation to the tune of ₹4,42,000/- on account of death of Chattar Pal Singh in the motor vehicular accident which took place on 27.07.2007.

2. All the aforesaid appeals have 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 record of the case carefully.

4. Initiating the arguments, learned counsel for the appellants contended that in FAO No.4874 of 2010 and FAO No.5124 of 2010 deceased Ravi alias Ravinder and Vijay Verma were 17 and 16 years of age respectively. They were students. The learned Tribunal has taken their notional income on the lower side. The multiplier applied by the learned Tribunal is also not proper. Thus, she contended that just amount of compensation has not been awarded. She relied upon case ***Kishan Gopal and another Vs. Lala and others 2013(4) RCR (Civil) 276.***

5. Learned counsel for the appellants further contended that in FAO No.5125 of 2010, the appellants have been granted compensation to the tune of ₹3,34,000/- on account of death of Giani Ram. He was a hawker by profession. No future prospects have been added to his income by the learned Tribunal. The multiplier applied by the learned Tribunal is also wrong. Very less amount has been awarded towards other conventional heads.

6. Similarly, in FAO No.5126 of 2010 she contended that the appellants-claimants have been awarded compensation to the tune of ₹4,42,000/- on account of death of Chattar Pal Singh, who was a driver by profession. No future prospects have been added to the income of the deceased. The multiplier of 16 should have been applied and less amount has been awarded towards the other conventional heads.

7. On the other hand, learned counsel for the respondent-Insurance Company contended that deceased Ravi alias Ravinder and

Vijay Verma were just the students. They were non-earning persons. Their notional income has been rightly determined by the learned Tribunal to be ₹15,000/- per annum. Appropriate compensation has been awarded under the other heads. He further contended that deceased Giani Ram and Chattar Pal Singh were not holding any permanent job. So, no future prospects were required to be added to the income of the deceased. The learned Tribunal has awarded the compensation to the appellants-claimants under all conventional heads. Thus, he contended that there is no scope for enhancement of the amount of compensation.

8. Firstly, I take up FAOs No.4874 and 5124 of 2010. In FAO No.4874 of 2010, the compensation has been sought on account of death of Ravi alias Ravinder by his parents and brother in this accident. Deceased Ravi alias Ravinder was 17 years of age and was student of 10+2. In FAO No.5124 of 2010, the compensation has been sought on account of death of Vijay Verma, aged about 16 years, a student of 9th Class, in this accident.

9. There is no dispute that both of them are the students and were non-earning persons. The learned Tribunal has determined the notional income of both the deceased to be ₹15,000/- per annum. The multiplier has been applied as per the age of the parents of the deceased. The appellants-claimants have been awarded only ₹25,000/- towards funeral expenses and ₹2500/- towards loss to estate. The Hon'ble Apex court in case ***Kishan Gopal and another Vs. Lala and others*** (supra) has

taken the notional income of a child of 10 years to be ₹30,000/- per annum and multiplier of 15 was applied. The claimants were also awarded ₹50,000/- under the conventional heads like loss of love and affection, funeral expenses, last rites etc. The case in hand is even on the better footings as the deceased in this case were of 17 and 16 years of age, respectively. They were also the student of 10+2 and 9th class, respectively. So, the appellants-claimants of both these appeals *i.e.* FAOs No.4874 and 5124 of 2010 can certainly be granted the compensation as awarded by the Hon'ble Apex Court in case ***Kishan Gopal and another Vs. Lala and others*** (supra). So, the appellants-claimants of FAOs No.4874 and 5124 of 2010 shall be entitled for compensation to the tune of ₹5,00,000/-, each.

10. In FAO No.5125 of 2010 the appellants-claimants have sought the compensation on account of death of Giani Ram, aged about 55 years. The learned Tribunal has taken the income of the deceased to be ₹4500/- per month, which does not call for any interference. However, the learned Tribunal has not added any future prospects to the income of the deceased. His income was bound to increase with the passage of time as it is a fact of common knowledge that the income of nobody remains stagnant for whole of the life and that is why even the minimum wages are revised periodically by the government. So, the future prospects were required to be added to the income of the deceased. Thus, in view of the age of the deceased 15% of his income is required to be added towards

the future prospects. The total income comes to ₹5175/- per month *i.e.* ₹62,100/- per annum. 1/3rd of the income of the deceased shall be deducted towards his personal and living expenses. The remainder comes to ₹41,400/-. The deceased was about 55 years of age at the time of his accidental death, therefore, as per the law laid down by Hon'ble Apex court in case *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77*, the multiplier of 11 shall be applicable. Thus, the loss of dependency comes to ₹4,55,400/-. Appellant-claimant Smt. Radha Devi, widow of the deceased shall be entitled to ₹1,00,000/- towards loss of consortium. Appellants-claimants No.2 to 6 the sons of the deceased shall be entitled to a sum of ₹2,00,000/- on account of loss of love, affection and guidance of their father. They shall also be entitled to ₹25,000/- as funeral expenses and ₹2500/- as loss to estate. Thus, the total amount of compensation payable to them comes to ₹7,82,900/-.

11. In FAO No.5126 of 2010 the appellants-claimants have sought compensation on account of death of Chattar Pal Singh in the present accident. It is pertinent to mention that the claimants in this case are Smt. Geeta Devi, widow, Manish minor son and Kajal minor daughter of deceased Chattar Pal Singh, but in Para No.34 of the impugned award, the learned Tribunal has mentioned the wrong facts regarding the name and age of the widow and the children.

12. The learned Tribunal has determined the income of the

deceased to be ₹4500/- per month, treating him to be an unskilled worker but the learned Tribunal has not added any future prospects to the income of the deceased. As discussed above the income of even an unskilled worker increases with the passage of time. So, in view of the age of the deceased as he was below 40 years of age at the time of his accidental death, 50% of his income was required to be added towards the future prospects. The total income of the deceased comes to ₹6750/- per month *i.e.* ₹81,000/- per annum. $1/3^{\text{rd}}$ of his income shall be deducted towards his personal and living expenses. The remainder comes to ₹54,000/- per annum. The deceased in this case was 35 years of age, so the multiplier of 16 shall be applicable. The loss of dependency comes to ₹8,64,000/-. In addition to that, appellant-claimant Smt. Geeta Devi, widow of Chattar Pal Singh shall be entitled to ₹1,00,000/- towards loss of consortium. Appellants-claimants No.2 and 3 the minor son and daughter of the deceased shall be entitled to ₹1,00,000/- towards loss of love, care and guidance of their father. The appellants-claimants shall also be entitled to ₹25,000/- towards funeral and last rites expenses and ₹2500/- towards loss of his estate. Thus, the total amount of compensation comes to ₹10,91,500/-.

13. Thus, keeping in view my aforesaid discussion, all the appeals are hereby partly allowed. In FAO No.4874 of 2010, the amount of compensation payable to the appellants-claimants is enhanced to ₹5,00,000/- from ₹1,85,000/- as awarded by the Tribunal. In FAO

No.5124 of 2010, also the amount of compensation payable to the appellants-claimants is enhanced to ₹5,00,000/- from ₹ 1,85,000/- as awarded by the Tribunal. In FAO No.5125 of 2010, the amount of compensation payable to the appellants-claimants is enhanced to ₹ 7,82,900/- from ₹ 3,34,000/- as awarded by the Tribunal. In FAO No.5126 of 2010, the amount of compensation payable to the appellants-claimants is enhanced to ₹10,91,500/- from ₹ 4,42,000/- as awarded by the Tribunal. 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 @ 7.5% per annum from the date of filing the claim petitions till realisation. The liability to pay the enhanced amount and the apportionment amongst the claimants shall remain as determined by the learned Tribunal in the main award.

14. 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-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.

28.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No