

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

**FAO No.6728 of 2010 (O&M)
Date of decision : 15.02.2016**

Smt. Bimla and another

.....Appellant

Versus

Mahipal 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. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate for appellant.

Mr. Ravinder Arora, Advocate for respondent No.4.

DARSHAN SINGH, J.

CM-6728-CII-2010

There is delay of 173 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed.

FAO No.6728 of 2010

The present appeal has been preferred against the award dated 01.12.2009 passed by learned Motor Accidents Claims Tribunal, Narnaul (hereinafter called the Tribunal), vide which the appellants-claimants have been awarded a sum of Rs.4,42,000/- as compensation on account of death of Shekar in the motor vehicle accident which took place on 01.5.2007.

2. The present appeal has been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. Learned counsel for the appellants contended that the deceased was a young man of 22 years of age but the learned Tribunal has not awarded any future prospects towards his income. The learned Tribunal has also not awarded any amount of compensation towards the loss of love and affection to his mother and loss to estate.

4. On the other hand Mr. Ravinder Arora, Advocate, learned counsel for the respondent-Insurance Company contended that the deceased was not holding any permanent job. He was just a casual worker. So, no future prospects were required to be added to his income. Thus, he contended that the compensation awarded by the learned Tribunal is just and appropriate.

5. I have duly considered the aforesaid contentions.

6. The learned Tribunal has awarded total Rs.4,42,000/- as compensation to the appellants-claimants on account of death of Shekar in this motor vehicular accident. Rs.4,32,000/- were awarded due to loss of dependency and Rs.10,000/- has been awarded towards funeral

expenses. Deceased Shekar was a young man of 22 years of age. The learned Tribunal has taken the income of the deceased as Rs.4000/- per month. There is no denial to the fact that with the passage of time his income was likely to increase. So, the learned Tribunal should have taken into consideration the future prospects towards the income of the deceased. As per the ratio of law laid down by the Hon'ble Apex Court in cases ***Rajesh and others Vs. Rajbir Singh and others (2013)3 RCR (Civil) 170*** and ***Munna Lal Jain & Anr. Vs. Vipin Kumar Sharma & Ors. 2015(3) PLR 304*** the future prospects are to be granted even in cases of the persons who are self-employed. Thus, keeping in view the age of the deceased, 50% of his income was required to be added towards the future prospects. Thus, the total income of the deceased comes to Rs.6000/-.

7. The deceased was a bachelor, so the learned Tribunal has rightly deducted 50% towards his living and personal expenses. So, the monthly loss of dependency comes to Rs.3000/- i.e. Rs.36000/- per annum. In view of the age of the deceased, the multiplier of 18 shall be applicable. The multiplicand comes to Rs.6,48,000/-.

8. The learned Tribunal has not awarded any compensation to appellant-claimant No.1 Bimla Devi the mother of deceased towards loss of love and affection. She will be entitled to a sum of Rs.50,000/- towards loss of love and affection. Learned Tribunal has awarded only Rs.10,000/- towards funeral expenses. The same are enhanced to Rs.25,000/-. The claimant shall also be entitled to a sum of Rs.15,000/- towards loss of estate. Thus, the total amount of compensation comes to

Rs.7,38,000/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.7,38,000/- from Rs.4,42,000/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realization @ 6% per annum, the rate of interest as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

15.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**