IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.2322 of 2012

Date of decision : 24.08.2016

Lovepreet Kaur and others

......Appellants

Versus

Ganesh Dutt and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ramneek Vasudeva, Advocate for appellants.

Respondent No.1 proceeded against *ex parte*.

Mr. J.S. Chatrath, Advocate for respondent No.2.

Mr. Vinod Gupta, Advocate for respondent No.3.

Mr. Baldev Kapoor, Advocate for respondents No.4 & 5.

Mr. Subhash Goyal, Advocate for
Mr. Ravinder Arora, Advocate for respondent No.6.

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DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 17.03.2011 passed by learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter called the "Tribunal"), vide which they has been awarded compensation to the tune of ₹4,63,000/- on account of the death of Jagdeep Singh caused in the motor vehicular accident which took place on 07.05.2009.

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

3. I have heard learned counsel for the parties and gone through the paper-book meticulously.

4. Learned counsel for the appellants contended that the learned Tribunal has not added any future prospects to the income of the deceased. The multiplier has also been applied wrongly. Very less amount has been awarded towards other conventional heads. Thus, he contended that the compensation awarded by the learned Tribunal is highly inadequate.

5. On the other hand, Mr. Vinod Gupta, Advocate, learned counsel for respondent-Insurance Company assisted by Mr. J.S. Chatrath, Advocate, learned counsel for respondent No.2 contended that the deceased was not having any permanent job, so future prospects were not admissible towards his income.

6. He further contended that the compensation awarded by the learned Tribunal is just and appropriate keeping in view the antecedents, age and income of the deceased.

7. I have duly considered the aforesaid contentions.

8. As per the case of the claimants, deceased Jagdeep Singh was doing the private job with M/s Pirthipal Singh Rice & General Mills, Mandi Bariwala, Tehsil & Distt. Shri Muktsar Sahib and was earning ₹5500/- per month. But in the absence of any cogent and convincing evidence, the learned Tribunal has determined the income of the deceased at the rate of ₹3500/- per month treating him to be unskilled worker and rightly so. The annual income of the deceased comes to ₹42,000/-. The learned Tribunal has not added any future prospects to the income of the deceased. The deceased was a young man of 26 years of age. Even if he was working as an unskilled labourer, his income was certainly to raise with the

passage of time.

9. In case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the judgment rendered by three Judges Bench of the Hon'ble Apex court, the future prospects were allowed in case of the self-employed person following the observations in ***Rajesh and others Vs. Rajbir Singh and others Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54***, wherein it was laid down as under :-

> "11. As far as future prospects are concerned, in ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54***, a three-Judge Bench of this Court held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects. To quote:
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> > "8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma case and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years."
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> The deceased being of the age of 30 years, 50% is the required addition."

10. In view of the aforesaid ratio of law, future prospects to the income of deceased were admissible. As per the age of the deceased, 50% of his income is required to be added towards future prospects. The total income of the deceased comes to ₹63,000/- per month. 1/3rd of the income of the deceased shall be deducted towards his personal and living expenses.

The remainder comes to ₹42,000/-. As per the age of the deceased, the multiplier of 17 shall be applicable. The loss of dependency comes to ₹7,14,000/-.

11. In addition to the aforesaid amount, the appellant-claimant Smt. Lovepreet Kaur, the widow of the deceased shall be entitled to ₹1,00,000/- on account of loss of consortium. Appellant-claimant No.2 Kulbir Singh, the minor son of the deceased shall also be entitled to a sum of ₹1,00,000/- on account of loss of love, care and guidance. The claimants shall also be entitled to a sum of ₹25,000/- towards funeral expenses. The total amount of compensation payable to the claimants comes to ₹ 9,39,000/-.

12. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to ₹9,39,000/- from ₹4,63,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate as determined by the learned Tribunal. The liability to pay the enhanced amount of compensation and apportionment amongst the claimants shall remain as determined by the learned Tribunal in the main award.

24.08.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No