

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

FAO No.6824 of 2011 (O&M)

Date of decision : 04.11.2016

Kavita Maini and others

.....Appellants

Versus

Jai Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. D.S. Adlakha, Advocate for appellants.

None for respondents No.1 and 2.

Mr. Charanpreet Singh, Advocate for
Mr. B.S. Bath, Advocate for respondents No.3 to 5.

Mr. Krishan Kant, Advocate for
Mr. Tajender K. Joshi, Advocate for respondent No.6.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 07.03.2011, passed by the learned Motor Accidents Claims Tribunal, Yamunanagar at Jagadhri (hereinafter called the “Tribunal”), vide which appellants-claimants have been awarded compensation to the tune of ₹5,63,440/- on account of the death of Sachin Maini in the motor vehicular accident which took place on 14.10.2009.

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 record of the case meticulously.

4. Learned counsel for the appellants-claimants contended that the deceased was a young man of 30 years of age. The learned Tribunal has not awarded any future prospects towards the income of the deceased. He further contended that less amount has been awarded to appellant-claimant No.1 Smt. Kavita Maini, widow of the deceased, towards loss of consortium. No amount has been awarded to appellants-claimants No.2 and 3, the parents of the deceased, towards loss of love and affection of their son. Less amount has been awarded for the funeral and last rites expenses. He further contended that the interest awarded by the learned Tribunal is also on the lower side. Thus, he pleaded that less amount of compensation has been awarded to the appellants-claimants by the learned Tribunal.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the deceased was a labourer. He was not having any permanent job carrying regular increments. So, the learned Tribunal has rightly not awarded the future prospects towards the income of the deceased. He further contended that the learned Tribunal has awarded the proper compensation under all the heads. Thus, the compensation awarded by the learned Tribunal to the appellants is just and appropriate.

6. I have duly considered the aforesaid contentions.

7. As per the case of the appellants-claimants the deceased was working as a labourer and was earning ₹6000/- per month but the learned

Tribunal has determined the income of the deceased to be ₹3914/- per month. This fact is not disputed that the deceased was a young man of 30 years of age. He was hale and hearty. 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. The deceased was 30 years of age, so 50% of his income is required to be added to his income towards future prospects. The total income of the deceased comes to ₹5871/- per month *i.e.* ₹70,452/- per annum. 1/3rd of the income of the deceased shall be deducted towards his personal and living expenses. The remainder comes to ₹46,968/-. To make it a round figure we can take ₹46,970/-. In view of the age of the deceased the multiplier of 17 shall be applicable. Thus, the loss of dependency comes to ₹7,98,490/-.

8. The learned Tribunal has awarded only ₹20,000/- as loss of consortium to appellant-claimant No.1 Smt. Kavita Maini. She being the widow of deceased Sachin Mani will be entitled to ₹1,00,000/- towards loss of consortium. Appellants-claimants No.2 and 3 are the parents of the deceased, but no amount has been awarded to them towards loss of love and affection. They will also be entitled to ₹1,00,000/- towards loss of love and affection of their son. Learned Tribunal has awarded only ₹10,000/- towards funeral and transportation expenses. The said amount is enhanced to

₹25,000/-. In this manner, the total amount of compensation comes to ₹10,23,490/-.

9. I do not find any defect in the judicial discretion exercised by the learned Tribunal in determining the rate of interest to be awarded to the appellants-claimants.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to the appellants-claimants is enhanced to ₹10,23,490/- from ₹5,63,440/- as awarded by the Tribunal. The claimants shall also be entitled to interest at the rate as 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 of compensation and the apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the main award.

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.

04.11.2016
sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No