

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

FAO No.6349 of 2012

Date of decision : 14.12.2016

Smt. Mukesh Rani and others

.....Appellants

Versus

Guru Charan Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Tushant Deep Garg, Advocate for appellants.

Mr. S. S. Sidhu, Advocate for respondent No.3-
Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 05.09.2012 passed by the learned Motor Accidents Claims Tribunal, Jhajjar (hereinafter called the “Tribunal”) in a claim petition filed under Section 166 of the Motor Vehicles Act (for short the “Act”), whereby the appellants-claimants have been awarded compensation to the tune of ₹11,87,500/- on account of death of Savikar Singh in the motor vehicular accident which took place on 17.06.2011.

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

3. Learned counsel for the appellants-claimants contended that

the income of the deceased has been wrongly taken to be ₹8500/- per month. In fact he was working as a Principal in S. R. Senior Secondary School, village Hassanpur, Distt. Jhajjar and was getting ₹18,000/- per month as salary but the learned Tribunal only determined the income of the deceased to be ₹8500/- per month. He further contended that no future prospects have been added to the income of the deceased. The deceased was only 35 years of age at the time of the death. He further contended that learned Tribunal has awarded very less amount towards the conventional heads. No amount has been awarded on account of loss of love and affection to the children and the mother of the deceased. Thus, he contended that just amount of compensation has not been awarded by the learned Tribunal.

4. On the other hand, learned counsel for respondent-Insurance Company contended that the income of the deceased has been rightly determined on the basis of appreciation of statement of PW-1 Hari Parkash. He contended that the deceased was not holding any government job, so the future prospects were not required to be added to the income of the deceased. He further contended that sufficient amount has been awarded by the learned Tribunal to the appellants-claimants under the other conventional heads.

5. I have given my thoughtful consideration to the aforesaid contentions.

6. As per the claimants, deceased was working as a Principal in S. R. Senior Secondary School, village Hassanpur, Distt. Jhajjar and was getting ₹18,000/- per month as salary. However, PW-1 Hari Parkash has

admitted in the cross-examination that he was paid ₹8500/- as salary for the month of March paid in April. He has also admitted that the salary register produced by him was not audited by any higher authority of the Society or by any authorized accountant. Thus, in these circumstances, the income of the deceased has been rightly taken to be ₹8500/- per month by the learned Tribunal.

7. The deceased was an educated person and was posted as a Principal in the private school. His income was bound to increase with the passage of time but the learned Tribunal has not added any future prospects towards the income of the deceased. He was below 40 years of age at the time of his accidental death. So, 50% of the income of the deceased is required to be added towards the future prospects. The total income of the deceased comes to ₹12,750/- per month i.e. ₹1,53,000/ per annum. There were four dependent family members of the deceased, so 1/4th of his income shall be deducted towards his personal and living expenses. The remainder comes to ₹1,14,750/-. The age of the deceased was more than 35 years but less than 40 years, so the learned Tribunal has rightly selected the multiplier of 15. Thus, the loss of dependency comes to ₹ 17,21,250/-.

8. Learned Tribunal has awarded very less amount of ₹ 20,000/- to appellant-claimant No.1 Smt. Mukesh Rani, the widow of the deceased towards loss of consortium. She will be entitled to a sum of ₹ 1,00,000/- for loss of consortium. Learned Tribunal has also not awarded anything to the children and mother of the deceased towards loss of love and affection. Appellants-claimants No.2 and 3 the minor children of the

deceased shall be entitled to a sum of ₹1,00,000/- on account of loss of love, care and guidance of their father. Appellant-claimant No.4 Smt. Krishna Devi, the mother of the deceased shall also be entitled to a sum of ₹ 1,00,000/- on account of loss of love and affection of her son. Learned Tribunal has only awarded a sum of ₹20,000/- towards funeral and last rites expenses, which is enhanced to ₹25,000/-. In this way, the total amount of compensation comes to ₹20,46,250/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellants-claimants is enhanced to ₹20,46,250/- from ₹11,87,500/- as awarded by the Tribunal. The appellants-claimants shall 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 the same as determined by the learned Tribunal in the main award.

10. 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.

14.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No