

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

**FAO-662-2012 (O&M)
Date of decision: 29.01.2016**

Gian Kaur

..Appellant

Versus

Janardan Singh and anr.

..Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. K. S. Chahal, Advocate for the appellants.

Mr. M. B. Jain, Advocate for respondent No.2.

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JITENDRA CHAUHAN, J.

This is claimants' appeal seeking enhancement of the amount of compensation awarded vide impugned award dated 05.10.2011, passed by the learned Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal').

It is contended that the deceased, Davinder Singh had been running a mechanical workshop by the name of M/s Janta Mechanical Works at Sunam. He had been earning more than Rs.15,000/- per month. The learned Tribunal against the record has assessed the income of the deceased at Rs.2500/- per month. The multiplier of 13 is also against the law laid down by Hon'ble Supreme Court in *Sarla Verma v. DTC (2009) 6 SCC 121*.

The learned counsel for the respondent-Insurance

Company states that just and reasonable compensation has been allowed and pray for dismissal of the appeal.

I have heard the learned counsel for the parties and perused the record.

The fact of accident is not disputed. From the record, it stands established that the deceased had died as a result of the accident.

From the perusal of the award, it is noticed that the learned Tribunal did not award any compensation on account of the future prospects. It is not in dispute that the deceased was 27 years of age at the time of his death. Therefore, keeping in view the law laid down in ***Rajesh Vs. Rajbir Singh (SC), 2013(3) R.C.R. (Civil), 170***, an addition of 50% is ordered in the actual income of the deceased towards future prospects. However, the learned counsel for the insurance company states that future prospects is not admissible to the appellant as Hon'ble Supreme Court is seized of the matter. However, he categorically states that there is no stay in the matter.

No evidence in support of the assertion with regard to income of deceased was laid by the claimants. However, the income assessed by the learned Tribunal deserves to be enhanced. As per the schedule, the minimum wages for the relevant year was Rs.3914/-. Accordingly, the income of the deceased is raised from

Rs.2500/- to Rs.4,000/-.

In Amrit Bhanu Shali and others vs. National Insurance Co. Ltd. and others 2012 ACJ 2002 in para 17 the Hon'ble Supreme Court has observed as under:-

“17. The selection of multiplier is based on the age of the deceased and not on the basis of the age of dependent. There may be a number of dependents of the deceased whose age may be different and, therefore, the age of the dependents has no nexus with the computation of compensation.”

In view of law laid down in Amrit Bhanu (supra), the multiplier should be applied as per the age of the deceased and not of the dependent-claimant. As such the learned Tribunal has erred in applying multiplier of '13' taking into account the age of the claimant. Rather, in view of age of the deceased being 27 years at the time of accident, the multiplier of 17 ought to have been applied. Thus, the multiplier is enhanced from 13 to 17.

In this way, the amount of compensation under the head of 'loss of dependency' comes to Rs.4,000/- + 50% X 12 X 17 X 1/2 = Rs.6,12,000/-, as against an amount of Rs.1,95,000/-, assessed by the learned Tribunal under this head.

Further, it is noticed that amount of Rs.5,000/- has been awarded towards the head 'cremation and last rites'. Accordingly, following the law laid down in *Rajesh Vs. Rajbir Singh (SC)*,

2013(3) R.C.R. (Civil), 170, Rs.5,000/- awarded under 'cremation and last rites' is enhanced to Rs.15,000/- under this head.

Furthermore, following the law laid down in ***Vimal Kanwar and others Vs. Kishore Dan and others, (2013-3) PLR 776***, an amount of Rs.1,00,000/- is awarded to the mother of the deceased for loss of love and affection.

In view of the above, the claimant-appellant is held entitled to the enhanced compensation of Rs.5,27,000/- [Rs.4,17,000/- (enhancement towards loss of dependence) + Rs.1,00,000/- (towards 'loss of love and affection', payable to the mother of the deceased) + Rs.10,000/- (enhancement towards 'cremation and last rites')] as indicated above, in the manner prescribed in the impugned award, over and above the amount already awarded by the learned Tribunal, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, she shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal, till its realization.

With the aforesaid modification in the impugned award, the present appeal is partly allowed.

29.01.2016
ashok

(JITENDRA CHAUHAN)
JUDGE