IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.877 of 2012

Date of decision : 10.11.2016

Smt. Geeta Devi and others

......Appellants

Versus

Satnam Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Anil Kumar Gehlawat, Advocate for the appellants.

Mr. R. K. Bashamboo, Advocate for respondent No.3-Insurance Company.

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DARSHAN SINGH, J.

The present appeal has been preferred by by the appellants-claimants against the award dated 09.04.2011, passed by learned Motor Accidents Claims Tribunal, Rewari (hereinafter called the "Tribunal") vide which the appellants-claimants have been awarded compensation to the tune of Rs.14,06,272/- on account of death of Rakesh Kumar in the motor vehicular accident, which took place on 23.04.2010.

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

3. I have heard learned counsel for the parties and have gone through the record of the case carefully.

4. Initiating the arguments, learned counsel for the appellants-

claimants contended that the learned Tribunal has not awarded any future prospects towards the income of the deceased. Less amount of compensation has been awarded towards loss of consortium and no compensation has been awarded at all on account of loss of love and affection to the children. Thus, he contended that the compensation awarded by the learned Tribunal is highly inadequate.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the deceased was not having any permanent job, so future prospects were not admissible towards his income. 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.

6. I have duly considered the aforesaid contentions.

7. In the claim petition, the appellant-claimant have contended that the deceased was working as a photographer in the village and was earning Rs.14,000/- per month. But in the absence of any cogent evidence produced by the appellants, the learned Tribunal has determined the income of the deceased to be Rs.4000/- per month, wherein there is no fault. However, the learned Tribunal has not awarded any future prospects towards the income of the deceased. The deceased was only 23 years of age at the time of his accidental death. It was also not disputed that he was hale and hearty at the time of his death. So, with the passage of time, his income was bound to increase. So, there was no reason not to add the future prospects to the income of the deceased. As already mentioned, the

deceased was 23 years of age on the date of his accidental death, so he was below 40 years of age and 50% of his income is required to be added towards the future prospects. In this way, the total income of the deceased comes to Rs.6000/- per month i.e. Rs.72,000/- per annum. The learned Tribunal has rightly deducted 1/3rd of the income of the deceased towards his personal and living expenses keeping in view the number of dependents. The remainder comes to Rs.48,000/-. The learned Tribunal has also rightly applied the multiplier of 18, so the loss of dependency comes to Rs.8,64,000/-.

8. The learned Tribunal has only awarded a sum of Rs.5000/- towards last rites and funeral expenses, which is required to be enhanced to be Rs.25,000/-. Appellant-claimant No.1 Smt. Geeta Devi the widow of the deceased has been awarded only a sum of Rs.5000/- towards loss of consortium, which is enhanced to Rs.1,00,000/-.

9. Appellants-claimants No.2 & 3 are the minor son and daughter of the deceased. No amount has been awarded to them for loss of love, care and guidance of their father. So, they shall be entitled to Rs.1,00,000/- under this head. Learned Tribunal has rightly awarded a sum of Rs.5000/- towards loss of estate and a sum of Rs.8,15,200/- on account of medical expenses incurred by appellants-claimants on the treatment of deceased Rakesh Kumar prior to his death. Thus, the total amount of compensation payable to the claimants comes to Rs.19,09,200/-.

10. 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 Rs.19,09,200/- from Rs.14,06,272/- as awarded by the Tribunal. The appellants-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 shall remain 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.

10.11.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No