

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

FAO No.1712 of 2013 (O&M)

Date of decision : 29.02.2016

Bhoop Dei

.....Appellants

Versus

Gurmeet Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Sandeep Kotla, Advocate for appellants.

DARSHAN SINGH, J.

CM-8838-CII-2013

There is delay of 249 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act read with Section 151 of the Code of Civil Procedure, 1908 for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay in filing the present appeal is hereby condoned.

FAO No.1712 of 2013

The present appeal has been preferred by the appellant-claimant No.1 against the award dated 28.2.2012 passed by learned Motor Accidents Claims Tribunal, Panipat (hereinafter called the Tribunal) whereby the appellant-claimant No.1 was awarded a sum of Rs.1,00,000/- as compensation on account of death of her son Bhure Lal in the motor vehicular accident which took place on 04.12.2010.

2. The present appeal has been preferred for enhancement of the amount of compensation.

3. Notice of this appeal was issued to the respondents. Respondents No.1 & 2 were served for 22.08.2014. Respondents No.3 & 4 were served for 05.03.2014 but none of them appeared, so they were proceeded against ex parte by the Coordinate Bench vide order dated 30.10.2015.

4. I have heard learned counsel for the appellants and gone through the paper-book.

5. Learned counsel for the appellants contended that the income of the deceased has been taken to be only Rs.3000/- per month. The accident has taken place in the year 2010. In that year even the wages of the casual labourer were about Rs.5000/- per month. He further contended that no future prospects have been awarded towards the income of the deceased. The multiplier has also been wrongly applied as per the age of the appellant No.1. No amount towards loss of love and affection has been awarded. Funeral expenses have also been granted less. Thus, he contended that the Tribunal has not awarded the just

compensation to the claimant.

6. I have duly considered the aforesaid contentions.

7. I found considerable substance in the contentions raised by learned counsel for the appellants. As per the case of the claimants deceased used to work in Roshan Textiles, Panipat and was earning Rs.8000/- per month. Claimants have not examined the Proprietor of the said firm nor any record was produced. So, the deceased was treated as unskilled labourer and his income has been taken to be Rs.3000/- per month, which is on the lower side as in the year 2010 even the casual labourer could easily earn Rs.4000/- per month. So the income of the deceased shall be taken to Rs.4000/- per month i.e. Rs.48,000/- per annum.

8. The learned Tribunal has not added anything as future prospects to the income of the deceased. As per the law laid down by the Hon'ble Apex Court in case ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54*** and ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the future prospects are required to be added to the income of even a self-employed person. The deceased was about 25 years of age at the time of his death, so he was much below the age of 40 years. So, 50% of his income shall be added towards the future prospects. The total income comes to Rs.72,000/- per annum (48000+24000). 50% of his income shall be deducted towards his personal and living expenses. The remainder comes to Rs.36,000/- per annum.

9. Now we are to select the suitable multiplier. Appellant-

claimant Bhoop Dei has deposed that the deceased was 30-35 years of age at the time of his death. In the copy of ration card Ex.P1 his age has been mentioned as 24 years but it was not clear when this ration card was issued. The voter identity card shows that the deceased was born in the year 1984. In this way, he was about 26 years of age at the time of the accident. In the postmortem report his age has been mentioned as 25 years. Thus, taking into consideration all the aforesaid evidence the deceased must be in the age group of 26-30. So, the multiplier of 17 shall be applicable. The multiplicand comes to Rs.6,12,000/- in addition to that appellants-claimants shall be entitled to a sum of Rs.50,000/- towards loss of love and affection of her son and Rs.25,000/- towards funeral and transportation charges. The total amount of compensation comes to Rs.6,87,000/-.

10. Thus, keeping in view my aforesaid discussion the present appeal is hereby allowed. The compensation awarded to the appellant-claimant No.1 is enhanced from Rs.1,00,000/- to Rs.6,87,000/-. The claimant shall also be entitled to interest at the rate as awarded by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation except the period of 249 days, the delay caused in filing the present appeal. The liability for payment of amount of compensation and mode of disbursement shall remain as per the award passed by learned Tribunal.

29.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**