

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

FAO No.2098 of 2013

Date of decision : 06.12.2016

Smt. Jasbir Kaur and others

.....Appellants

Versus

Kiranjeet Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Ashwani Arora, Advocate for appellants.

Mr. Harsh Aggarwal, Advocate for
respondent No.3-Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 17.01.2013, passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the “Tribunal”), vide which they have been awarded compensation to the tune of ₹5,86,000/- on account of the death of Manjit Singh in the motor vehicular accident which took place on 16.01.2003.

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 contended that the deceased was a truck driver. He further contended that the learned Tribunal

has taken the income of the deceased only to be ₹4000/- per month. However, no future prospects have been added towards the income of the deceased. He further contended that very less amount of compensation has been awarded on account of loss of consortium and funeral expenses. No amount has been awarded to the minor children and mother of the deceased towards loss of love and affection. Thus, he contended that just amount of compensation has not been awarded.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the deceased 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. The deceased was the driver of the heavy vehicle by profession and he was at the wheel of the vehicle even at the time of the accident. Thus, the income of the deceased assessed by the learned Tribunal at the rate of ₹4000/- per month cannot be stated to be unreasonable.

8. This fact is not disputed that the deceased was a young man of 32 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. As the deceased was below 40 years of age at the time of his accidental death, so 50% of his income is required to be added to his income towards future prospects. The total income of the deceased comes to ₹6000/- per month *i.e.* ₹72,000/- per annum. Keeping in view the number of dependent family members, 1/4th of the income of the deceased shall be deducted towards his personal and living expenses. The remainder comes to ₹54,000/-. In view of the age of the deceased the multiplier of 16 shall be applicable. Thus, the loss of dependency comes to ₹8,64,000/-.

9. The learned Tribunal has awarded only ₹5000/- as loss of consortium to appellant-claimant No.1 Smt. Jasbir Kaur. She being the widow of deceased Manjit Singh will be entitled to ₹1,00,000/- towards loss of consortium. Appellants-claimants No.2 to 4 are the minor children of the deceased, but no amount has been awarded to them towards loss of love, care and guidance of their father. They will also be entitled to a sum of ₹1,00,000/- under this head. Appellant-claimant No.6 Smt. Surjit Kaur is the mother of the deceased, but no amount has been awarded to her towards loss of love and affection of her son. She will also be entitled to ₹1,00,000/- under this head. Learned Tribunal has awarded only ₹5000/- towards funeral and transportation expenses. The said amount is enhanced to ₹25,000/-. In this manner, the total amount of compensation comes to ₹11,89,000/-.

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 ₹11,89,000/- from ₹5,86,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced amount of compensation at the same rate as determined by the learned Tribunal from the date of filing the claim 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.

06.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No