IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.2133 of 2013 (O&M)
Date of decision : 01.03.2016

Jasbir Kaur

......Appellant

Versus

Sant Ram and Anr.

...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. Deepak Bhardwaj, Advocate for appellant.

Mr. M.B. Jain, Advocate for respondent No.3.

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DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-claimant against the award dated 09.01.2013 passed by learned Motor Accidents Claims Tribunal, Patiala (hereinafter called the 'Tribunal'), vide which the claimant has been awarded compensation to the tune of Rs.3,45,000/- along with interest @ 9% per annum from the date of filing the petition till realisation on account of death of her daughter Ms. Shivani in the motor vehicular accident which took place on 17.02.2009.

2. Learned counsel for the appellant contended that deceased was a young girl of 23 years of age. She was working as Anganwari Worker and was also taking tuitions, but no future prospects have been added to her income. The multiplier has also been wrongly applied as per the age of the claimant. No amount has been awarded towards loss of love and affection and less amount has been awarded towards funeral expenses.

3. On the other hand, learned counsel for the respondent-Insurance Company contended that the income of the deceased has been taken on higher side by the learned Tribunal. He further contended that no future prospects were required to be added to the income of the deceased as she was not holding any permanent post. He contended that in case ***National Insurance Company Ltd. Vs. Pushpa and others 2015 (9) SCC 166,*** the Hon'ble Apex Court has referred the matter to the Larger Bench with respect to the permissibility of granting the future prospects. He further contended that just compensation has been awarded by the learned Tribunal under all other heads.

4. I have duly considered the aforesaid contentions.

5. Deceased Ms. Shivani was 23 years of age at the time of the accident. She was working as an Anganwari Wroker. It is alleged that she was also taking tuitions. The learned Tribunal has correctly taken the income of the deceased to be Rs.5000/- per month. The deceased was a graduate. She was working as Anganwari Wroker and was also taking tuitions. So, her income was bound to increase with the passage of time. I do not find any substance in the plea raised by learned counsel for the

respondent-Insurance company that no future prospects were required to be added to the income of the deceased. In case ***National Insurance Company Ltd. Vs. Pushpa and others*** (supra), relied upon by learned counsel for respondent-Insurance Company the matter has only been referred to the larger Bench keeping in view the conflicting judgments but in a latest judgment rendered by three-Judges Bench of the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the future prospects were allowed in case of the self-employed person following the observations in ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54***, wherein it was laid down as under :-

> *"11. As far as future prospects are concerned, in Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54, a three-Judge Bench of this Court held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects. To quote:*
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> > *"8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma case and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years."*
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> *The deceased being of the age of 30 years, 50% is the required addition."*

6. Thus, in view of the aforesaid ratio of law laid down by

the Hon'ble Apex Court and the age of the deceased 50% of her income was required to be added towards future prospects. So, the total income of the deceased comes to Rs.7500/- per month i.e. Rs.90,000/- per annum.

7. The claimant is the mother of the deceased. So, 50% of the income of the deceased was required to be deducted towards her living and personal expenses. The remainder comes to Rs.45,000/-. The learned Tribunal has applied the multiplier as per the age of the claimant but in view of the latest judgment of the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others*** (supra) the multiplier shall be applicable as per the age of the deceased. So, the multiplier of 18 shall be applicable. The multiplicand comes to Rs.8,10,000/-. The claimant shall also be entitled to a sum of Rs.50,000/- towards loss of love and affection of the daughter and Rs.25,000/- towards the funeral expenses. The total comes to Rs.8,85,000/-.

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.8,85,000/- from Rs.3,45,000/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate of interest as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

01.03.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**