

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

FAO No.10166 of 2014 (O&M)

Date of decision : 09.11.2016

Pooja Kumari and others

.....Appellants

Versus

Girdhari Lal and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Arnav Sood, Advocate for appellants.

Mr. R. C. Gupta, Advocate for
respondent No.3-Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 15.09.2014, passed by learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter called the “Tribunal”), vide which they have been awarded compensation to the tune of ₹7,37,000/- on account of the death of Vivek Sharma in the motor vehicular accident which took place on 01.05.2013.

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-claimants contended that

the learned Tribunal has considered the deceased to be a skilled person still his income has been taken to be on the lower side *i.e.* only ₹4500/- per month which is far less than the minimum wages prescribed by the Punjab Government for the relevant period. He further contended that no future prospects have been awarded towards the income of the deceased. He was 27 years and two months of age at the time of the death, so 50% of his income should have been added towards future prospects. He further contended that no amount has been awarded to the mother of the deceased on account of loss of love and affection of her son.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased is not proved to be a skilled worker. He was only a Matriculate and was working in the Laboratory run by his brother. Thus, the income taken into consideration by the learned Tribunal is justified. He further contended that the deceased was not having any permanent job, so future prospects were not admissible towards his income. The learned Tribunal has rightly not added any future prospects to the income of the deceased. He 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. The learned Tribunal has considered the deceased to be skilled worker, but in view of the contentions raised by learned counsel for the respondent-Insurance Company as the deceased was not having any technical education or training and was just working with his brother, so at

the most he can be taken to be the semi skilled person and as per the notification issued by the office of the Labour Commissioner, Punjab the minimum wages for the semi skilled person for the relevant period were ₹6475/- per month. So, the income of the deceased shall be taken to be ₹6400/- per month *i.e.* ₹ 76,800/- per annum. The learned Tribunal has not awarded any future prospects towards the income of the deceased. The deceased was a young man of 27 years of age at the time of his death. He was a Matriculate and was working with his brother in the laboratory, so the income of the deceased was likely to increase as with the passage of time he was certainly to acquire the knowledge with respect to the functioning of the laboratory. So, the future prospects should have been added to the income of the deceased. The learned Tribunal has determined the age of the deceased to be 27 years. So, 50% of the income of the deceased should have been added towards future prospects. Thus, the total annum income of the deceased comes to Rs.1,15,200/-.

8. There were three dependents-claimants. So, 1/3rd of the income of the deceased should be deducted towards his personal and living expenses. The remainder comes to ₹76,800/-. As per the age of the deceased, multiplier of 17 would be applicable. The loss of dependency comes to ₹13,05,600/-.

9. Learned Tribunal has rightly awarded a sum of ₹1,00,000/- to appellant-claimant No.1 Smt. Pooja Kumari towards loss of consortium and a sum of ₹25,000/- towards last rites and funeral expenses. The learned Tribunal has not awarded any amount to appellant-claimant No.3 Smt.Geeta

Devi the mother of the deceased. Smt. Geeta Devi has lost her young son, so she is certainly entitled for compensation on account of loss of love and affection of her son to the extent of ₹1,00,000/-. The total amount of compensation payable to the claimants comes to ₹15,30,600/-.

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 ₹15,30,600/- from ₹7,37,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced amount of compensation at the rate as awarded by the learned Tribunal from the date of filing the claim petition till realisation. The liability to pay the enhanced amount and the apportionment amongst the claimants 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.

09.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No