IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.10245 of 2014
Date of decision : 30.05.2016

Munesh Devi and others

......Appellants

Versus

Raj Kumar and others

...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. Ashish Gupta, Advocate for appellants.

Ms. Vandana Malhotra, Advocate for respondent No.3-Insurance Company.

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<u>DARSHAN SINGH, J.</u>

The present appeal has been preferred by the appellants-claimants against the award dated 20.10.2014, passed by the learned Motor Accidents Claims Tribunal, Gurgaon (hereinafter called the 'Tribunal') vide which the appellants-claimants have been awarded a sum of Rs.14,50,000/- as compensation on account of death of Satpal alias Sant Pal as a result of injuries suffered by him in the motor vehicular accident, which took place on 01.05.2013.

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

3. Learned counsel for the appellants-claimants contended that

the learned Tribunal has not awarded any future prospects towards the income of the deceased. The learned Tribunal has also not awarded any compensation on account of loss of love and affection to the minor children and the mother.

4. On the other hand, learned counsel appearing for the respondent-Insurance Company contended that the deceased was not engaged in any permanent job and as such, no future prospects could have been added to his income. The compensation has been adequately awarded under the other conventional heads. Thus, he contended that there is no scope of any further enhancement in the amount of compensation.

5. I have duly considered the aforesaid contentions.

6. As per the findings of the learned Tribunal, the deceased has been considered to be a skilled labourer and his income has been taken to be Rs.6000/- per month. As the deceased was a skilled labourer so his income was bound to increase with the passage of time, but learned Tribunal has wrongly declined the future prospects towards the income of the deceased on the ground that he was not having any permanent job. In the 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:

> *"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."*

The deceased being of the age of 30 years, 50% is the required addition."

7. The learned Tribunal has determined the age of the deceased to be 38 years. Thus, in view of the age of the deceased, 50% of his income is to be added towards the future prospects. The total income of the deceased comes to Rs.9000/- per month i.e. Rs.1,08,000/- per annum. 1/4th of the income of the deceased is to be deducted towards his personal and living expenses. The remainder comes to Rs.81,000/- per annum. In view of the age of the deceased, multiplier of 15 shall be applicable so the compensation on account of loss of dependency comes to Rs.12,15,000/- (81,000 x 15).

8. The learned Tribunal has not awarded any amount on

account of loss of love and affection to the mother and loss of love, care and guidance to the minor children. In ***Rajesh and others Vs. Rajbir Singh*** (supra), there were three minor children. The Hon'ble Apex Court has awarded the compensation of Rs.1,00,000/- to all the children on account of loss of love and affection. So, the claimants No.2 to 4, the minor children of the deceased are entitled to a sum of Rs.1,00,000/- on account of loss of love, care and guidance. Claimant No.4 Anchai Devi, mother of the deceased shall also be entitled to a sum of Rs.1,00,000/- on account of love and affection of her son. Thus, the amount of compensation payable to the claimants is detailed below:-

Sr. No.	**Heads of compensation**	**Amount of compensation in rupees**
1.	Loss of dependency	12,15,000/-
2.	Medical expenses	4,15,000/-
3.	Loss of consortium	1,00,000/-
4.	Loss of love, care and guidance to minor children	1,00,000/-
5.	Loss of love and affection to mother	1,00,000/-
6.	Funeral expenses	25,000/-
Total		**19,55,000/-**

9. 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.19,55,000/- from Rs.14,50,000/- as awarded by the Tribunal. The appellants-claimants shall be entitled to interest on the enhanced amount from the date of filing the petition till

realisation at the rate as determined by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

30.05.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**