

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

FAO No.2283 of 2013 (O&M)

Date of decision : 08.11.2016

Harjit Kaur and others

.....Appellants

Versus

Jagtar Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Arnav Sood, Advocate for appellants.

Mr. M.B. Jain, Advocate for
respondent No.3-Insurance Company.

DARSHAN SINGH, J.

CM-10732-CII-2013

There is delay of 244 days in filing the present appeal. The appellants have filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 244 days in filing the present appeal is hereby condoned.

Main Appeal

The present appeal has been preferred by the appellants-claimants against the award dated 07.05.2012, passed by learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter called the "Tribunal"),

vide which they have been awarded compensation to the tune of Rs.12,46,032/- on account of the death of Manga Singh alias Amarjit Singh in the motor vehicular accident which took place on 29.03.2008.

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 deceased was working as a Patwari with the State of Punjab but the learned Tribunal has not awarded any increase towards the future prospects to the income of the deceased. He further contended that the learned Tribunal has wrongly applied the split multiplier. The deceased was only 42 years of age and still he had 16 years of service to attain the age of superannuation. He further contended that no amount has been awarded to the minor son and daughter of the deceased. Less amount has been awarded towards loss of consortium. Thus, he pleaded that the compensation awarded by the learned Tribunal is inadequate.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has rightly applied the split multiplier. The claimants are also not entitled for any future prospects as after the death of Manga Singh alias Amarjit Singh, the claimant might be receiving the family pension. He further contended that just and appropriate amount of compensation has been awarded by the learned Tribunal under other conventional heads. Thus, the impugned award does not call for any interference.

6. I have duly considered the aforesaid contentions.

7. This fact is not disputed that deceased Manga Singh alias Amarjit Singh was serving as a Patwari. It is alleged that he was also cultivating his own land and was earning Rs.40,000/- per month, but on appreciation of the evidence brought on record the learned Tribunal has determined the income of the deceased to be Rs.14,813/- per month *i.e.* the salary, which he was getting from the government. The deceased was the government employee. Certainly his income was to rise with the passage of time. He was bound to get the annual increment, revision of pay, revision of dearness allowance and promotion etc. but the learned Tribunal has not added any future prospects to the income of the deceased. At the time of death, he was 42 years of age, so 30% of the income of the deceased was required to be added towards future prospects. In this way, the total income of the deceased comes to Rs.19,257/- (14,813 + 4444). 1/3rd of the aforesaid income is to be deducted towards his personal and living expenses. The remainder comes to Rs.12,838/- per month. The annual dependency comes to Rs.1,54,056/- (12,838 x 12). The learned Tribunal has applied the split multiplier. The deceased was 42 years of age at the time of the accident. He still had 16 years of service to attain the age of superannuation. As per the age of the deceased, the multiplier of 14 shall be applicable in view of the law laid down by Hon'ble Apex Court in case ***Sarla Verma and others Vs. Delhi Transport Cooperation and another (2009) 6 SCC 121***. The application of split multiplier has been discarded by the Hon'ble Apex Court in case ***Sri. K.R. Madhusudhan and others Vs. Administrative Officer and another 2011(2) ACJ 743***. So, the multiplier of 14 shall be applicable.

Thus, the total loss of dependency comes to Rs.21,56,784/-. In addition to the aforesaid amount, appellant-claimant No.1 Smt. Harjit Kaur the widow of deceased Manga Singh alias Amarjit Singh shall be entitled to Rs.1,00,000/- towards loss of consortium. Appellants-claimants No.2 and 3 the minor son and daughter of the deceased shall also be entitled to Rs.1,00,000/- on account of loss of love, care and guidance of their father. The claimants are also entitled to Rs.25,000/- towards funeral and last rites expenses. In this way, the total amount of compensation payable to the claimants comes to Rs.23,81,784/-.

8. 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.23,81,784/- from Rs.12,46,032/- 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.

08.11.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No