

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

**FAO No.10364 of 2014
Date of decision : 11.02.2016**

Smt. Jarina and others

.....Appellants

Versus

Anil 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. Sandeep Verma, Advocate for
Mr. Bhupender S. Saroha, Advocate for appellants.

Mr. Robin Lohan, Advocate for respondents No.1 & 2.

Mr. B.S. Taunque, Advocate for respondent No.3.

Mr. Shashikant, Advocate for respondent No.5.

Mr. Pavinder Singh Bedi, Advocate for respondent No.6.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 30.07.2014, passed by learned Motor Accidents Claims Tribunal, Bhiwani (hereinafter called the 'Tribunal') vide which the compensation to the tune of Rs.2,84,284/- has been awarded to the appellants-claimants on account of death of Sajid Khan in the motor vehicular accident which

took place on 26.04.2000 due to rash and negligent driving of canter truck bearing registration No.HR-46-5564 by respondent No.1, owned by respondent No.2 and insured with respondent No.3.

2. The present appeal has been preferred by the appellants-claimants dissatisfied with the quantum of compensation.

3. I have heard Mr. Sandeep Verma, Advocate for Mr. Bhupender S. Saroha, Advocate, learned counsel for appellants, Mr. Robin Lohan, Advocate, learned counsel for respondents No.1 & 2, Mr. B.S. Taunque, Advocate, learned counsel for respondent No.3, Mr. Shashikant, Advocate, learned counsel for respondent No.5, Mr. Pavinder Singh Bedi, Advocate, learned counsel for respondent No.6 and gone through the paper-book carefully.

4. Learned counsel for the appellants contended that the learned Tribunal has not awarded any future prospects towards the income of the deceased. He was only 26 years of age and had very good prospects for the increase of the income. He further contended that the learned Tribunal has not awarded just and proper compensation under other conventional heads.

5. On the other hand, learned counsel for the respondents contended that the learned Tribunal has taken into consideration all the factors i.e. income and age of the deceased, dependency of the claimants and, thereafter, properly computed the amount of compensation, which is just and appropriate.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has awarded a total sum of Rs.2,84,284/- as compensation to the appellants-claimants on account of death of Sajid Khan in this accident. The learned Tribunal has taken the income of the deceased as Rs.1906/- per month. The deceased was employed as a cleaner on the canter truck bearing registration No.HR-46-5564 owned by respondent No.2. He was 26 years of age at the time of his death. So, certainly the future prospects were required to be added towards the income of the deceased. As per the law laid down by the Hon'ble Apex Court in cases *Rajesh and others Vs. Rajbir Singh and others (2013) 3 RCR (Civil) 170* and *Munna Lal Jain & Anr. Vs. Vipin Kumar Sharma & Ors. 2015(3) PLR 304*, the future prospects are admissible even to the self-employed persons. Thus, keeping in view the age of the deceased 50% of the income of the deceased is required to be added to the income of the deceased, so the total income of the deceased comes to Rs.2859/-. 1/3rd of this amount is to be deducted towards his personal and living expenses and remainder comes to Rs.1906/-. In view of the age of the deceased, the multiplier of 17 was applicable. So, the multiplicand comes to Rs.3,88,824 (1906 x 12 x 17). The learned Tribunal has awarded Rs.5000/- towards transportation and Rs.10,000/- towards burial expenses i.e. total Rs.15,000/-. This amount is required to be enhanced to Rs.25,000/-. Only Rs.10,000/- has been awarded to appellant-claimant No.1 the widow of deceased as loss of consortium. This amount is also enhanced to Rs.1,00,000/- towards loss of consortium. The learned Tribunal has not awarded any amount to the

minor son of the deceased on account of loss of love, care and guidance. Appellant-claimant No.2 Altaf the minor son of the deceased shall also be entitled to a sum of Rs.1,00,000/- under this head. Now the total amount comes to Rs.6,13,824/- (3,88,824 + 25,000 + 1,00,000 + 1,00,000). Thus, the appellants-claimants are entitled to a total sum of Rs.6,13,824/-

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced by Rs.3,29,540/-, raising the total amount of compensation/ award to Rs.6,13,824/- instead of Rs.2,84,284/- as awarded by the learned Tribunal. The claimants shall be entitled to interest on the enhanced amount from the date of filing the petition till realization @ 6% per annum, 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.

11.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**