

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

**FAO No.10365 of 2014
Date of decision : 03.03.2016**

Manbir Kaur and others

.....Appellants

Versus

Amit Inder Singh and another

...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 appellant.

Ms. Monika Jangra, Advocate for
Ms. Vandana Malhotra, Advocate for respondent No.2.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 07.08.2014, passed by learned Motor Accidents Claims Tribunal, Patiala (hereinafter called the 'Tribunal') vide which they have been awarded compensation to the tune of Rs.5,26,000/- along with interest @ 7.5% per annum from the date of filing the petition till realisation on account of death of Bakshish Singh in the motor vehicular accident, which took place on 30.12.2012.

2. The present appeal has been preferred for enhancement of the amount of compensation.

3. Learned counsel for the appellants contended that no future prospects have been awarded towards the income of the deceased. He was 52 years of age at the time of the death. He was skilled carpenter and was earning Rs.40,000/- per month. 15% of his income should have been added towards future prospects. He further contended that less amount has been awarded towards loss of love and affection to the children and towards funeral expenses. No amount has been awarded towards loss to estate. Thus, he contended that the compensation awarded by the learned Tribunal is inadequate.

4. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased was just a labourer. He was not holding any permanent job. So, the claimants were not entitled for addition of future prospects. She further contended that the appropriate amount has been awarded on account of loss of love and affection to the children and funeral expenses. Thus, he pleaded that no enhancement is called for.

5. I have duly considered the aforesaid contentions.

6. Deceased Bakshish Singh at the time of his death was 53 years of age as per the postmortem report Ex.A4. The learned Tribunal has considered the deceased as unskilled labourer and his income has been taken to be Rs.4500/- per month but no future prospects have been awarded towards the income of the deceased. Even though the deceased was an unskilled labourer. It is a fact of common knowledge that even the

income of the labourer increases with the passage of time. So, the future prospects should have been added to the income of the deceased. Mere, this fact that deceased was not holding any permanent job is no ground to decline the addition of the future prospects to his income as the future prospects are required to be added even to the income of a self-employed person. To support this view, reference can be made to cases ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***. Thus, keeping in view the age of the deceased, 15% of his income was required to be added towards future prospects. The total income of the deceased comes to Rs.5175/- (4500 + 675). So, the annual income of the deceased comes to Rs.62,100/-. 1/3rd of his income is to be deducted towards the living and personal expenses of the deceased. The remainder comes to Rs.41,400/- per annum. Multiplier of 11 shall be applicable in view of the age of the deceased. The loss of dependency comes to Rs.4,55,400/-.

7. The learned Tribunal has awarded Rs.10,000/- each to claimants No.2 & 3 towards loss of love and affection and Rs.10,000/- towards last rites expenses. In case ***Rajesh and others Vs. Rajbir and others 2013(3) RCR (Civil) 170***, the judgment rendered by three Judges Bench of Hon'ble Apex Court, there were three children of the deceased and they were awarded a sum of Rs.1,00,000/- towards loss of care and guidance. So, claimants No.2 & 3 shall be entitled to a sum of Rs.1,00,000/- towards loss of love, care and guidance. The amount of compensation towards funeral expenses is enhanced from Rs.10,000/- to Rs.25,000/-. The claimant shall also be entitled to a sum of Rs.15,000/-

towards loss to estate. In this way the total amount of compensation is worked out as under:-

Sr No.	Head	Amount of compensation in rupees
1	Loss of dependency	4,55,400
2	Loss of consortium to claimant No.1-widow	100000
3	Loss of love, care and affection to both the children	100000
4	Funeral expenses	25,000
5	Loss to estate	15,000
	Total	6,95,400

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.6,95,400/- from Rs.5,26,000/- 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 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.

03.03.2016

sunil yadav

(DARSHAN SINGH)
JUDGE