

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

**FAO No.2826 of 2013
Date of decision : 19.02.2016**

Prem Singh and another

.....Appellants

Versus

Tilshwar 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. Vinod Kumar, Advocate for
Mr. Harkesh Manuja, Advocate for appellants.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 28.01.2013 passed by learned Motor Accidents Claims Tribunal, Sonapat (hereinafter called the 'Tribunal'), vide which the claimants have been awarded compensation to the tune of Rs.3,39,000/- on account of death of their son Raju in the motor vehicular accident which took place on 28.11.2010 in the area of village Mohamdabad.

2. Learned counsel for the appellants contended that no future prospects have been added to the income of the deceased. He was only 19 years of age. 50% future prospects should have been added to the income of the deceased. The multiplier has also been wrongly applied keeping in view the age of the parents. No amount has been awarded to the mother on account of love and affection and less amount has been awarded towards funeral and transportation charges.

3. On the other hand, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has rightly applied the multiplier keeping in view the age of the deceased. The deceased was not holding any permanent job. So, no future prospects were required to be added to the income of the deceased. Thus, he pleaded that the just and appropriate compensation has been awarded by the learned Tribunal.

4. I have duly considered the aforesaid contentions.

5. I found substance in the pleas raised by learned counsel for the appellants. The deceased was 19 years of age at the time of his death. He was unmarried. The income of the deceased has been taken by the learned Tribunal to be Rs.3600/- per month but the learned Tribunal has not added anything towards future prospects to the income of the deceased. It has been pleaded before the learned Tribunal that the deceased was working as a meson. So, certainly there was strong possibility of the enhancement of the income of the deceased with the passage of time. The future prospects should have been added to the income of the deceased. Mere this fact that he was not holding any

permanent job is no ground to decline the request for addition of future prospects. 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.”

6. In view of the aforesaid ratio of law laid down by the Hon'ble Apex Court, the future prospects were required to be added to the income of the deceased. The deceased was 19 years of age at the time of his death. So, 50% of his income was required to be added towards the future prospects. So, total income of the deceased comes to Rs.5400/- per

month [3600 + 1800 (*being 50% of the income*)]. The annual income of the deceased comes to Rs.64,800/-. As the deceased was bachelor and the claimants are the parents, so 50% of his income shall be deducted towards his personal and living expenses. The remainder comes to Rs.32,400/-.

7. The learned Tribunal has wrongly applied the multiplier as per the age of the parents. In view of the law laid down by the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others*** (supra), the multiplier of 18 as per the age of the deceased shall be applicable. The multiplicand comes to Rs.5,83,200/-.

8. In addition to that the claimant shall be entitled to a sum of Rs.25,000/- towards funeral and transportation charges. Claimant Smt. Sunita the mother of the deceased shall also be entitled to a sum of Rs.50,000/- towards loss of love and affection. In this way, the total amount of compensation comes to Rs.6,58,200/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.6,58,200/- from Rs.3,39,000/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realization @ 7.5 % 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.

19.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**