

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

(1)

FAO No.1474 of 2014

Date of decision : 21.11.2016

Lachhmi Devi alias Lachho Devi

.....Appellant

Versus

Satnam Singh and others

...Respondents

(2)

FAO No.5490 of 2014

Date of decision : 21.11.2016

Nikri alias Seema and another

.....Appellants

Versus

Satnam Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present : Mr. Manjit Singh Uppal, Advocate for appellant
in FAO No.1474 of 2014.

Mr. J.K. Singla, Advocate for appellants
in FAO No.5490 of 2014.

Mr. Rajnish Malhotra, Advocate for
respondent-Insurance Company in both the appeals.

DARSHAN SINGH, J.

This judgment of mine shall dispose of both the appeals

caption above, which have arisen out of the same award dated 25.11.2013 passed by the learned Motor Accidents Claims Tribunal, Mansa (hereinafter called the "Tribunal"), whereby the appellants-claimants have been awarded compensation to the tune of Rs.6,74,068/- on account of death of Jiwan Kumar in the motor vehicular accident which took place on 25.08.2012.

2. Claimant-appellant of FAO No.1474 of 2014 is the mother of deceased Jiwan Kumar. Claimants-appellants of FAO No.5490 of 2014 are the widow and minor son of deceased Jiwan Kumar. Both these appeal have been preferred by appellants-claimants for enhancement of amount of compensation.

3. I have heard learned counsel for the parties and have gone through the record meticulously.

4. Learned counsel for the appellants contended that the deceased was 30 years of age at the time of his death. He has been considered to be a labourer by the learned Tribunal and his income has been taken only to be Rs.4000/- per month, which is on the lower side even as per the minimum rate of wages fixed by the government. He further contended that no future prospects have been added to the income of the deceased. Nothing has been awarded on account of loss of love and affection to the children and parents. Thus, they contended that inadequate amount of compensation has been awarded.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased was only a labourer so

the income taken by the learned Tribunal is just and appropriate. He was not having any permanent job having regular increments. So, he was not entitled for any future prospects. He further contended that appropriate amount of compensation has been given under all the relevant heads. Thus, he contended that the award passed by learned Tribunal does not call for any interference.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal while considering deceased Jiwan Kumar to be a labourer has taken his income to be Rs.4000/- per month. The present accident has taken place on 25.08.2012. The State of Punjab has fixed the minimum rate of wages with effect from 01.03.2012 for unskilled laborurer at the rate of Rs.4268/-. So, the income of the deceased shall be taken to be Rs.4268/- per month *i.e.* Rs.51,216/- per annum. To make it a round figure, we can take it as Rs.51,200/-. The learned Tribunal has not added anything to the income of the deceased towards future prospects. This fact is not disputed that the deceased was a young man of 30 years of age. He was hale and hearty. His income was bound to increase with the passage of time as it is a fact of common knowledge that the income of nobody remains stagnant for whole of the life and that is why even the minimum wages are revised periodically by the government. So, the future prospects were required to be added to the income of the deceased. The deceased was 30 years of age, so 50% of his income is required to be added to his income towards future prospects. The total income of the deceased comes to Rs.76,800/-. 1/3rd of the

income of the deceased is to be deducted towards his personal and living expenses. The remainder comes to Rs.51,200/-. In view of the age of the deceased, the multiplier of 17 shall be applicable. Thus, the loss of dependency comes to Rs.8,70,400/-.

8. In addition to that appellant-claimant Smt. Lichhmi Devi, the mother of the deceased shall be entitled to Rs.1,00,000/- on account of loss of love and affection of her son. Similarly, appellant-claimant Vinay Kumar the minor son of the deceased shall also be entitled to Rs.1,00,000/- towards the loss of love, care and guidance of his father. The learned Tribunal has rightly awarded Rs.1,00,000/- as loss of consortium to appellant-widow of the deceased, Rs.25,000/- towards funeral expenses and Rs.5000/- as loss to estate. So, the total amount of compensation comes to Rs.12,00,400/-.

9. Thus, keeping in view my aforesaid discussion, both the appeals are hereby partly allowed. The amount of compensation payable to the appellants-claimants is enhanced to Rs.12,00,400/- from Rs.6,74,068/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation and the apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the main award.

10. As the matter with respect to future prospects has been referred to the Larger Bench of the Hon'ble Apex Court in case *National*

Insurance Company Vs. Pushpa, (2015) 9 SCC 166, in order to safeguard the interest of respondent No.3-Insurance Company, the amount of compensation under the head future prospects shall be disbursed to the claimants against adequate security in the form of sufficient indemnity bonds to the satisfaction of the learned Tribunal/executing Court, wherein the claimants will undertake that if the Hon'ble Apex Court adjudicates that the casual labourers/persons not holding the permanent jobs will not be entitled to the future prospects, then they will be bound to refund the amount of future prospects received by them on moving the requisite application by the respondent-Insurance Company and the learned Tribunal will be competent to take the steps without making any reference to this Court.

21.11.2016

sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : **Yes / No**

Whether reportable : **Yes / No**