

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

**FAO No.321 of 2013
Date of decision : 26.02.2016**

Shri Krishan alias Shri Kishan and others

.....Appellants

Versus

Bharat Singh 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. J.P. Sharma, Advocate for appellants.

Mr. R.S. Dhull, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 07.11.2012 passed by the learned Motor Accidents Claims Tribunal, Narnaul (hereinafter called the Tribunal) vide which they have been awarded compensation to the tune of Rs.3,22,400/- along with interest @ 7.5% per annum on account of death of their father in the motor vehicular accident which took place on 02.11.2011.

2. The present appeal has been preferred only for

enhancement of the amount of compensation.

3. Learned counsel for the appellants contended that the age of the deceased determined by the learned Tribunal was 56 years but no future prospects have been awarded to the income of the deceased. He further contended that only Rs.10,000/- have been awarded towards the funeral expenses. Thus, the learned Tribunal has not properly calculated the amount of the compensation.

4. On the other hand, learned counsel for the respondent No.3-Insurance Company contended that the learned Tribunal has computed just and appropriate compensation. The claimants have failed to establish the profession of the deceased so no future prospects were required to be added to the income of the deceased.

5. I have duly considered the aforesaid contentions.

6. Deceased Goma Ram was 56 years of age at the time of his death in this accident. As per the case of the claimants, he was an agriculturist and was also doing dairy farming but they have not produced any revenue record to show that Goma Ram deceased was having any agricultural land. No cogent evidence was produced even to establish that he was running any milk diary. But as deceased Goma Ram was an able bodied person and was 56 years of age. It cannot be expected that he will remain idle. So, he must be doing some job, may be as a labourer. The Hon'ble Apex Court in cases ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54*** and ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, has laid down that the future prospects to the income of even the self-employed persons are

required to be added. In this case as deceased Goma Ram was in the age group of 50 to 60 years, so 15% of his income is required to be added to his income. The learned Tribunal has determined the income of deceased Goma Ram to be Rs.4200/- per month. After adding 15% towards future prospects the total income comes to Rs.4830/- i.e. Rs.57960/- per annum. 1/3rd of his income is to be deducted towards his personal and living expenses. The remainder comes to Rs.38,640/-. In view of the age of the deceased, the multiplier of 9 is applicable. The multiplicand comes to Rs.3,47,760/-.

7. The learned Tribunal has awarded only Rs.10,000/- towards funeral and last rites. This amount is enhanced to Rs.25,000/-. Now the total amount of compensation comes to Rs.3,82,760/- (3,47,760 + 25,000 + 10000).

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.3,82,760/- from Rs.3,22,400/- 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 @ 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.

26.02.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**