

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

FAO No.1772 of 2014

Date of decision : 18.05.2016

Sham Kali and others

.....Appellants

Versus

Anil Bhalla 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. Rishu Mahajan, Advocate for appellants.

Mr. Vivek Salathia, Advocate for respondents No.1 & 2.

Ms. Vandana Malhotra, Advocate for
respondent No.3-Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 27.07.2013 passed by the learned Motor Accidents Claims Tribunal, Amritsar (hereinafter called the 'Tribunal'), vide which the appellants-claimants have been awarded compensation to the tune of Rs.4,44,000/- on account of death of Budhi Ram, the husband of appellant-claimant No.1 and father of appellants-claimants No.2 to 5 in the motor vehicular accident which took place on 02.03.2009.

2. The present appeal has been preferred by the appellants-claimants for enhancement of the amount of compensation.

3. Initiating the arguments, learned counsel for the appellants contended that no future prospects have been awarded towards the income of the deceased. He was 40 years of age. 50% future prospects should have been added to the income of the deceased. He further contended that only Rs.12,000/- have been awarded towards loss of consortium and funeral expenses. No amount has been awarded to the claimants No.2 to 5, the minor children of the deceased towards loss of love and affection. Thus, he contended that the compensation awarded by the learned Tribunal is highly inadequate.

4. On the other hand, Ms. Vandana Malhotra, Advocate, learned counsel for respondent No.3-Insurance Company contended that even as per the claim petition the deceased was 40 years of age at the time of his death. So, he is not entitled for 50% future prospects. She further contended that the learned Tribunal has taken into consideration all the heads while computing the compensation.

5. I have duly considered the aforesaid contentions.

6. The learned Tribunal has determined the income of the deceased to be Rs.3200/- per month i.e. Rs.38,400/- per annum. The learned Tribunal has not added anything towards future prospects to the income of the deceased. The deceased was 40 years of age at the time of his death. Even the income of the labourer increases with the passage of time, that is why the minimum wages of the labourer are revised by the government

regularly with certain intervals. So, certainly the claimants are entitled for addition of the future prospects to the income of the deceased. As per the law laid down by the Hon'ble Apex Court in cases *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77* and *Rajesh & others Vs. Rajbir Singh & others, 2013(3) RCR (Civil) 170*, where the deceased is below 40 years of age, 50% of his actual salary is to be added towards future prospects and where the deceased was below 40 to 50 years, addition would be 30%. In the instant case, this fact could not be disputed that the deceased was 40 years of age at the time of death. So, he was not below 40 years at the time of death. Thus, 30% of his income shall be added towards future prospects to the income of the deceased, which comes to Rs.11,520/-. The total income comes to Rs.49,920/- (38,400 + 11,520). 1/4th of the income of the deceased shall be deducted towards his personal and living expenses. The remainder comes to Rs.37,440/-. As per the age of the deceased, the multiplier of 15 shall be applicable. So, the compensation on account of loss of dependency comes to Rs.5,61,600/-. In addition to that, the appellant-claimant No.1 shall be entitled to Rs.1,00,000/- towards loss of consortium. The deceased had four minor children. They will be entitled to Rs.2,00,000/- on account of loss of love and affection. The appellants-claimants will be further entitled to Rs.25,000/- towards funeral expenses.

7. With the aforesaid increase, the amount of compensation payable to the appellants-claimants will be as under:-

Sr. No.	Compensation heads	Amount in rupees
1.	Loss of dependency	5,61,600
2.	Loss of consortium to appellant No.1	1,00,000
3.	Loss of love and affection to the children	2,00,000
4.	Funeral expenses	25,000
Total		8,86,600

8. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.8,86,600/- from Rs.4,44,000/- as awarded by the learned 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 shall remain as determined by the learned Tribunal in the main award.

18.05.2016
sunil yadav

(DARSHAN SINGH)
JUDGE