

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

**Decided on: 15.07.2016**

**1. FAO No.2110 of 2014**

Mamta and others

....Appellants

Versus

Naresh and others

....Respondents

**2. FAO No.4181 of 2014**

Gautam

....Appellant

Versus

Naresh and others

....Respondents

**CORAM: HON'BLE MRS JUSTICE REKHA MITTAL**

**Present :** Mr. Randeep Singh, Advocate  
for the appellants (in both the appeals)

Mr. J. P. Sharma, Advocate  
for respondents No.1 and 2 (in both the appeals)

Mr. Rajesh K. Sharma, Advocate  
for respondent No.3 (in both the appeals)

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- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

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**REKHA MITTAL J.**

This order will dispose of FAO Nos.2110 of 2014 “*Mamta and others vs Naresh and others*” and No. 4181 of 2014 “*Gautam vs Naresh and others*” as these have emerged out of a common award dated 09.12.2013 passed by the Motor Accident Claims Tribunal, Karnal (in short 'the Tribunal') whereby appellants Mamta and others have been awarded compensation in regard to death of Sushil Kumar

but petition filed by Gautam (appellant in FAO No.4181 of 2014) for grant of compensation in respect of injuries sustained by him in the same accident has been dismissed.

**FAO No.2110 of 2014**

Counsel for the appellants would submit that the learned Tribunal assessed income of the deceased at Rs.4,800/- per month, deducted 1/4<sup>th</sup> towards personal and living expenses of the deceased, adopted multiplier of 18 to calculate loss of dependency. Another amount of Rs.5,000/- has been awarded for transportation and funeral. In addition thereto, an amount of Rs.10,000/- has been awarded for loss of consortium to widow of the deceased. It is argued that no benefit in respect of increase in income for future prospects was allowed nor the children and parents of the deceased have been allowed compensation for loss of love and affection. The compensation awarded under conventional heads requires enhancement in the light of judgments of Hon'ble the Supreme Court "***Rajesh and others Vs. Rajbir Singh and others***", 2013(3) R.C.R. (Civil) 170 and "***Vimal Kanwar and others vs. Kishore Dan and others***" 2013(2) R.C.R. (Civil) 945.

Counsel for respondent No.3 (Tata AIG General Insurance Company Limited, in short 'the company') has supported the award passed by the learned Tribunal with the submission that the matter with regard to grant of benefit of increase in income is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India in "***National Insurance Company Limited Vs Pushpa and others***" vide ***SLP No.8058/2014***.

Counsel for respondents No.1 and 2 has echoed the arguments advanced by counsel for respondent No.3.

I have heard counsel for the parties, perused the paperbook and the original records.

The appellants shall be entitled to increase in income for future prospects to the extent of 50% as the deceased was less than 25 years' of age. The pendency of the matter before a Larger Bench is not sufficient to deny the benefit till the time the judgment in Rajesh and others case (supra) is varied or set-aside by Hon'ble the Apex Court. The loss of dependency after allowing benefit of increase in income for future prospects comes to **Rs. 11,66,400/-** ( $Rs.4800 \times 12 \times 18 = Rs.10,36,800/- - Rs.2,59,200/-$  (deduction of  $1/4^{th}$ ) =  $Rs.7,77,600/- + Rs.3,88,800/-$  (50% towards future prospects).

Under the conventional heads, the widow shall be entitled to an amount of **Rs.1,00,000/-** towards loss of consortium. The minor claimants Anamika and Rajni are awarded an amount of **Rs.1,50,000/-** towards loss of love and affection. The parents of the deceased shall be entitled to an amount of **Rs.1,00,000/-** in equal share for loss of love and affection of their son. The appellants are awarded an amount of **Rs.25,000/-** towards expenses on funeral. They shall be entitled to an amount of **Rs.34,700/-** (round figure) towards expenses incurred on treatment of the deceased, based upon the documents Ex.P-14 to Ex.P-23. The total amount of compensation payable to the appellants comes to Rs.15,76,100/-. The enhanced amount of compensation comes to **Rs.7,83,100/-** ( $Rs.15,76,100/- - Rs.7,93,000/-$ ). The amount of

enhanced compensation shall carry interest @ 7.5% per annum from the date of filing of claim petition till realization.

The compensation payable to the children and parents towards loss of love and affection shall be payable to them as per their entitlement discussed hereinbefore. The remaining enhanced compensation shall be paid to widow of deceased.

The compensation awarded to the minor children shall be deposited in the shape of FDR in a nationalized bank for a period of two years or till they attain the age of majority whichever is later. The compensation payable to widow and parents shall also be deposited in FDR for a period of two years.

#### **FAO No.4181 of 2014**

The claim petition for awarding compensation in regard to injuries sustained by Gautam has been declined primarily on the ground that the receipts Ex. P-25, P-27 and P-28 have not been proved by examining a doctor. There is no challenge to statement of Gautam that he also sustained injuries in the occurrence. His testimony stands corroborated from the medico legal report Ex.P-24. The strict rules of evidence are not applicable to the proceedings conducted by the Tribunal which are summary in nature. In absence of any rebuttal to statement of Gautam, it is difficult to affirm the findings of the Tribunal that Gautam did not sustain any injury in the occurrence or he is not entitled to compensation. However, in view of nature of injuries sustained by the victim coupled with value of the bills exhibited on record, Gautam is awarded a consolidated sum of Rs.5,000/- payable

with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

For the foregoing reasons, both the appeals are disposed of in the aforesaid terms.

**15.07.2016**  
*yakub*

**(REKHA MITTAL)**  
**JUDGE**