IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.1539 of 2015 (O&M)

Date of decision : 31.03.2016

Reliance General Insurance Company Ltd.

......Appellant

Versus

Smt. Kavita 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. R.K. Bashamboo, Advocate for appellant.

Mr. Abhishek Yadav, Advocate for
Mr. Vikrant Hooda, Advocate for respondents No.1 to 4.

Mr. Vijay Saini, Advocate for
Mr. Rakesh Nehra, Advocate for respondent No.5.

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DARSHAN SINGH, J.

The present appeal has been preferred by appellant–Reliance General Insurance Company Limited (respondent No.3 in the claim petition) against the award dated 29.08.2014 passed by the learned Motor Accidents Claims Tribunal, Jhajjar (hereinafter called the 'Tribunal'), vide which respondents No.1 to 4 (claimants in the claim petition) have been awarded compensation to the tune of Rs.21,55,000/- on account of death of Satpal in the motor vehicular accident which took place on 12.02.2012.

2. The appellant-Insurance Company has filed the present appeal assailing the award.

3. Learned counsel for the appellant-Insurance Company contended that there was no documentary evidence to establish the income of the deceased. The learned Tribunal has wrongly taken the income of the deceased to be Rs.10,000/- per month. He further contended that the learned Tribunal has also wrongly awarded the future prospects towards the income of the deceased. He was not having any regular income and no future prospects were required to be added towards the income of the deceased.

4. On the other hand, learned counsel for respondents No.1 to 4-claimants contended that the deceased was the owner-cum-driver of the four-wheeler. The four-wheeler was being plied for commercial purpose. He was even paying the monthly installment of Rs.12,100/- towards repayment of loan. So, the learned Tribunal has not committed any wrong in taking the income of the deceased to be Rs.10,000/- per month. He further contended that the deceased was self-employed person and the learned Tribunal has rightly added 50% of future prospects towards his income keeping in view his age. Thus, he contended that no interference is called for in the award passed by learned Tribunal.

5. I have duly considered the aforesaid contentions.

6. As per the case of the claimants, deceased Satpal owned a

TATA-407 bearing registration No.HR-63B-3340. He was also alleged to be an agriculturist. The claimants have placed on file the copy of the Registration Certificate of the aforesaid vehicle which stood in the name of the deceased. The deceased had also got the said vehicle financed and used to pay Rs.12,100/- as monthly installment towards repayment of the loan. In view of the fact that the deceased was owner of a commercial vehicle, the income of the deceased taken by the learned Tribunal to be Rs.10,000/- per month is quite reasonable.

7. The deceased was 39 years of age at the time of the accident. The learned Tribunal has added 50% of his income towards future prospects. I do not find any substance in the plea raised by learned counsel for the appellant that no future prospects were required to be added to the income of the deceased. He has also referred case ***National Insurance Company Ltd. Vs. Pushpa and others 2015 (9) SCC 166***. But there is no denial to the fact that the deceased was owner of a commercial vehicle. The income of the transporters always increases with the passage of time as freights are increasing day by day. Thus, there was very bright prospects of the increase in the income of the deceased in future.

8. In ***National Insurance Company Ltd. Vs. Pushpa and others*** (supra), relied upon by learned counsel for the appellant due to divergent opinion in cases ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54*** and ***Reshma Kumari and others Vs. Madan Mohan and another (2013) 9 SCC 65***, the matter was referred to the

Larger Bench. ***Pushpa's*** case was decided by the Hon'ble Apex Court on 02.07.2014 but in a latter 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*** (supra), 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:
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> > "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."
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> The deceased being of the age of 30 years, 50% is the required addition."

9. Thus, in view of the latest judgment of the Hon'ble Apex Court in ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others*** case (supra), no fault can be found in adding the future prospects to the income of the deceased by the learned Tribunal in order to assess

the amount of compensation.

10. Thus, keeping in view my aforesaid discussion, the present appeal has no merits and the same is hereby dismissed.

31.03.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**