

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

FAO No.349 of 2014

Date of decision : 02.08.2016

Smt. Daya Kaur and another

.....Appellants

Versus

Daya Nand and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Karan Singh, Advocate for
Mr. Bhupender Ghangas, Advocate for appellants.

Mr. Saurabh Girdhar, Addl. A. G., Haryana
for respondents No.1 to 3.

Mr. Neeraj Khanna, Advocate for respondent No.4.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 27.07.2013, passed by the learned Motor Accidents Claims Tribunal, Bhiwani (hereinafter called the "Tribunal") vide which the appellants-claimants have been awarded a sum of ₹ 3,50,000/- as compensation on account of death of Anand as a result of injuries suffered by him in the motor vehicular accident, which took place on 05.01.2012.

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

3. Learned counsel appearing for the appellants-claimants contended that the deceased was working as a part time plumber and was also the student of B.A. first year and getting training of English

Stenography from Pre-Examination Training Center, Bhiwani. He was holding a Diploma in Plumbing and Sanitary Fitting from Red Cross Institute of Computer Technology, Bhiwani and doing part time job with Ram Singh, Licensed Plumber of Kakroli Hukmi. But the learned Tribunal has not awarded any future prospects to the income of the deceased. No amount towards loss of love and affection has been awarded to the appellants. The multiplier has also been applied as per the age of the claimants instead of the age of the deceased. Less amount has been awarded towards funeral expenses. Thus, he pleaded that less amount of compensation has been awarded.

4. On the other hand, learned counsel appearing for the respondent-Insurance Company contended that the deceased was only a student of B.A first year. The learned Tribunal has awarded the compensation while treating the deceased to be a casual worker and, therefore, no future prospects could have been added to his income. The compensation has been adequately awarded under the other conventional heads. Thus, he contended that there is no scope of any further enhancement in the amount of compensation.

5. I have duly considered the aforesaid contentions and found considerable substance in the contentions raised by learned counsel for the appellants-claimants.

6. The learned Tribunal has determined the income of the deceased to be ₹ 5000/- per month. The appellants have brought on file the document Ex.PX to show that he has completed six months Diploma in

Plumbing and Sanitary fitting from Red Cross Institute of Computer Technology, Bhiwani. He was also the student of English Stenography. Deceased was having technical education. So, the learned Tribunal should have awarded the future prospects towards the income of the deceased. Deceased Anand was 21 years of age. So, 50% of his income shall be added towards future prospects. The total income comes to ₹ 7500/- per month *i.e.* ₹ 90,000/- per annum. The learned Tribunal has rightly deducted 50% of the income of the deceased. The deceased was bachelor and claimants are his parents. So, 50% of his income is to be deducted towards his living and personal expenses. The remainder comes to ₹ 45,000/-.

7. The learned Tribunal has applied the multiplier as per the age of the claimants. The Hon'ble Apex Court has applied the multiplier as per the age of the deceased in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304.*** Thus, keeping in view the age of the deceased, the multiplier of 18 shall be applicable. Thus, the loss of dependency comes to ₹ 8,10,000/-.

8. In addition to the aforesaid amount, the claimants shall be entitled to ₹1,00,000/- towards loss of love and affection of their son and ₹ 25,000/- towards funeral expenses. Total amount of compensation payable to the claimants comes to ₹ 9,35,000/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to ₹ 9,35,000/- from ₹ 3,50,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to

interest on the enhanced amount from the date of filing the petition till realisation at the rate as determined by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

02.08.2016
sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No