

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

**FAO No.3771 of 2014 (O&M)
Date of decision : 14.03.2016**

Meena Devi and others

.....Appellants

Versus

Shri Deepak Sharma 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: Ms. Ekta Thakur, Advocate for appellants.

Mr. Pardeep Goyal, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 01.08.2013, passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the 'Tribunal') vide which the appellants-claimants have been awarded the compensation to the tune of Rs.8,44,400/- on account of the death of Yoginder Parshad Gupta in the motor vehicular accident, which took place on 30.01.2012.

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

3. Learned counsel for the appellants contended that the learned Tribunal has not awarded any amount towards future prospects, love and affection to the children and loss to estate. 1/3rd of the income of the deceased has been wrongly deducted. There were four dependents. The deduction should have been 1/4th. She further contended that the funeral expenses have also been awarded less.

4. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased was not holding any permanent job, so the learned Tribunal has not rightly awarded the future prospects. He further contended that the just compensation has been awarded under the other conventional heads and no enhancement is called for.

5. I have duly considered the aforesaid contentions.

6. I found considerable substance in the contentions raised by learned counsel for the appellants.

7. The learned Tribunal has determined the income of the deceased to the tune of Rs.10,200/- per month on the basis of the salary certificate Ex.P6. The learned Tribunal has also categorically mentioned that the employment of the deceased with the Bhushan Factory is even verified from the FIR Ex.P2, wherein it is mentioned that he was coming out from Bhushan Factory when he met with the accident. The age of the deceased was determined by the learned Tribunal to be 53 years at the time of his death. Thus, from the aforesaid evidence, it comes out that deceased was employed as weldor with Bhushan Factory. The learned

Tribunal has not awarded any future prospects towards the income of the deceased.

8. The Hon'ble Apex court in case ***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 are admissible even in case of self-employed victims. In view of the age of the deceased 15% of the income of the deceased are required to be added to the income of the deceased. The deceased was having the annual income of Rs.1,22,400/- (10,200 x 12). After adding 15% towards future prospects, the total comes to Rs.1,40,760/-.

9. The claim petition has been filed by the widow and three children of deceased Yoginder Parshad Gupta. So, the deceased had four dependents. Thus, 1/4th of his income should have been deducted towards his personal and living expenses. The remainder comes to Rs.1,05,570/-. The multiplier of 11 shall be applicable in view of the age of the deceased i.e. 53 years. The total loss of dependency comes to Rs.11,61,270/-. The learned Tribunal has not awarded any compensation to the children of the deceased on account of loss of love, care and guidance. They will be entitled to Rs.1,00,000/- under this head. The funeral expenses are enhanced from Rs.10,000/- to Rs.25,000/-. The learned Tribunal has rightly awarded Rs.1,00,000/- on account of loss of consortium to appellant-claimant No.1 Smt. Meena Devi the widow of deceased. The claimants shall be further entitled to a sum of Rs.25,000/- towards loss to

estate. In this way, the total amount of compensation comes to Rs.14,11,270/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.14,11,270/- from Rs.8,44,400/- as awarded by the learned Tribunal. The appellants-claimants shall be entitled to interest on the enhanced amount from the date of filing the petition till realization at the rate, 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.

14.03.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**