IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.2290 of 2015 (O&M)
Date of decision : 01.02.2016

The Oriental Insurance Company Ltd.

......Appellant

Versus

Smt. Malti Devi 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. D.P. Gupta, Advocate for appellant.

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DARSHAN SINGH, J.

The appellant-Oriental Insurance Company Limited has directed this appeal against the award dated 18.11.2014, passed by the learned Motor Accidents Claims Tribunal, Rewari (hereinafter called the 'Tribunal'), vide which claimants-respondents No.1 to 5 have been awarded compensation to the tune of Rs.14,40,000/- along with interest @ 6% per annum from the date of filing the petition till realisation on account of the death of Sudhir Jha in the motor vehicular accident, which took place on 03.11.2011.

2. I have heard Mr. D.P. Gupta, Advocate, learned counsel for the appellant and gone through the paper-book carefully.

3. Learned counsel for the appellant contended that deceased Sudhir Jha was neither a government employee nor he was the permanent employee. His employment with Speedo Max Company, Sidhrawali could not be established. The learned Tribunal has considered the minimum wages of an unskilled labourer fixed by the Haryana Government at the rate of Rs.6000/- per month to compute the compensation. Thus, he contended that as the deceased was only a casual and unskilled worker, so the learned Tribunal was not justified in awarding 50% future prospects towards the income of the deceased. To support his contentions, he relied upon case ***National Insurance Company Ltd. Vs. Pushpa and others 2015 (9) SCC 166***. Thus, he contended that the amount of compensation calculated by the learned Tribunal is exorbitant.

4. I have duly considered the aforesaid contentions.

5. As per the case of the claimants, the deceased was working with Speedo Max Company, Sidhrawali and was getting Rs.8200/- per month as salary. But the learned Tribunal, in the absence of any authenticated proof regarding the income and employment of the deceased, has taken the income of the deceased as Rs.6000/- per month, the minimum wages of an unskilled labourer fixed by the Haryana Government. Learned counsel for the appellant has raised objection to 50% future prospects granted by the learned Tribunal towards the income of the deceased on the ground that he was simply a casual labourer but this plea raised by learned counsel for the appellant is without any substance. 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."

6. 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) in my opinion the learned Tribunal has not committed any mistake in awarding 50% future prospects towards the income of the deceased as he was 38 years of the age at the time of the accident.

7. Thus, there is no illegality in computation of the compensation by the learned Tribunal. Therefore, in view of my aforesaid discussion, the present appeal has no merits and the same is hereby dismissed.

01.02.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**