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

**FAO No.231 of 2015
Date of decision : 03.05.2016**

Jarnail Singh

......Appellant

Versus

Jagdish 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. Sandeep Kotla, Advocate for appellant.
Mr. M.B. Jain, Advocate for respondent No.3.

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DARSHAN SINGH, J.

The present appeal has been preferred by the appellant-claimant No.1 against the award dated 13.08.2014, passed by the learned Motor Accidents Claims Tribunal, Fatehabad (hereinafter called the 'Tribunal') vide which the appellant-claimants have been awarded compensation to the tune of Rs.6,11,600/- on account of death of Jasdev Singh in the motor vehicular accident which took place on 27.07.2013.

2. The present appeal has been preferred by the appellant-claimant No.1 for enhancement of the amount of compensation.

3. Learned counsel for the appellant contended that the

learned Tribunal has not awarded any future prospects towards the income of the deceased. The deceased was 26 years of age. There was every possibility of the appreciation in the income of the deceased. He further contended that no amount has been awarded on account of loss of love and affection of his son to the appellant. 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 only a casual worker and no future prospects could have added to his income. He contended that in case ***National Insurance Company Ltd. Vs. Pushpa and others 2015 (9) SCC 166***, the Hon'ble Apex Court has referred the matter to the Larger Bench with respect to the permissibility of granting the future prospects. He further contended that the learned Tribunal has awarded Rs.10,000/- as loss of consortium which was not permissible, as the claimants are parents of deceased. Thus, he contended that just compensation has been awarded by the learned Tribunal.

5. I have duly considered the aforesaid contentions.

6. The learned Tribunal has determined the income of the deceased to be Rs.5800/- per month presuming him to be a casual labourer. There is no denial to the fact that he was a young man of 26 years of age. Even if he would have been working as a casual labourer, there were very bright prospects of the increase in his income with the passage of time. So, the future prospects as per the age of the deceased

should have been added to his income. In case ***National Insurance Company Ltd. Vs. Pushpa and others*** (supra), relied upon by learned counsel for respondent-Insurance Company the matter has been referred to the larger Bench keeping in view the conflicting judgments but in a latest 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 (2013) 9 SCC 54***, and 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: "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 selfemployed 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 selfemployed 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." The deceased being of the age of 30 years, 50% is the required addition."*

7. Thus, in view of the age of the deceased 50% of the

income of the deceased is required to be added to his income towards future prospects, which comes to Rs.8700/- per month i.e. Rs.1,04,400/- per annum. 50% of the income of the deceased shall be deducted towards his personal and living expenses. The remainder comes to Rs.52,200/-. As per the age of the deceased, the multiplier of 17 shall be applicable. The loss of dependency comes to Rs.8,87,400/-.

8. The learned Tribunal has awarded Rs.10,000/- towards loss of consortium, which is not permissible as the claimants are the father and sister of the deceased. Instead of that, the claimants shall be entitled to a sum of Rs.1,00,000/- towards loss of love and affection. The learned Tribunal has awarded only Rs.10,000/- towards funeral and last rites expenses, which are required to be enhanced to Rs.25,000/-. In this way the total amount of compensation comes to Rs.10,12,400/- (8,87,400 + 1,00,000 + 25,000).

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.10,12,400/- from Rs.6,11,600/- as awarded by the learned Tribunal. The claimants shall 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.

03.05.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**