

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

**FAO No.4208 of 2014 (O&M)
Date of decision : 04.05.2016**

Baljit Kaur and others

.....Appellants

Versus

Jaswinder Singh 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. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate for appellants.

None for respondents No.1 & 2.

Ms. Vandana Malhotra, Advocate with
Ms. Monika Jangra, Advocate for respondent No.3-
Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 17.01.2014 passed by the learned Motor Accidents Claims Tribunal, SAS Nagar, Mohali (hereinafter called the 'Tribunal') vide which the appellants-claimants have been awarded a sum of Rs.19,65,207/- as compensation on account of death of Jagmohan Singh on 23.11.2012 as a result of injuries suffered by him in the motor

vehicular accident, which took place on 23.04.2012.

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 below 40 years of age. The learned Tribunal has added only 30% of his income towards future prospects. It should have been granted 50% of the income of the deceased. She further contended that there were five dependents of the deceased. The learned Tribunal has wrongly deducted 1/3rd of the income of the deceased towards his personal and living expenses instead of 1/4th. She further contended that less amount has been awarded towards loss of consortium and no amount has been awarded towards loss of love and affection. Thus, she contended that the learned Tribunal has not awarded the just compensation.

4. On the other hand, Ms. Monika Jangra, learned counsel appearing for respondent No.3-Insurance Company contended that the learned Tribunal has awarded just compensation to the claimants. The appropriate future prospects have also been added to the income of the deceased. The compensation has been adequately awarded under the other non-conventional heads. Thus, she contended that there is no scope of any further enhancement in the amount of compensation.

5. She further contended that the learned Tribunal has wrongly awarded interest at the rate of 9% per annum and it should be

reduced to 5% or 6% per annum.

6. I have duly considered the aforesaid contentions.

7. As per the case of the claimants, the deceased was working as technician with Godrej and Boyce Manufacturing Company Ltd. and as per the salary certificate Ex.P2 he was getting Rs.10,082/- per month as salary. The learned Tribunal has determined the income of the deceased to be Rs.10,082/- per month *i.e.* Rs. 1,20,984/- per annum.

8. The learned Tribunal has wrongly added 30% of the income of the deceased towards future prospects. The date of birth of the deceased was 01.11.1974 as per the certificate Ex.P6. This accident has taken place on 23.04.2012 and deceased Jagmohan died on 23.11.2012. At the time of his death, he was about 38 years of age. Thus, he was below 40 years of age at the time of his death. As per the law laid down by the Hon'ble Apex Court in ***Sarla Verma and others Vs. Delhi Transport Cooperation and another (2009) 6 SCC 121*** and ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54***, 50% of the income of the deceased is required to be added to his actual income as future prospects where the deceased is below 40 years of age. So, 50% of the income of the deceased shall be added towards future prospects. The total income of the deceased comes to Rs.1,81,476/-. The present claim petition has been filed by the widow, minor daughter, minor son and parents of the deceased. So, there were five dependents upon the income of the deceased. The learned Tribunal has wrongly deducted 1/3rd income

of the deceased towards his personal and living expenses which should have been $\frac{1}{4}^{\text{th}}$. The remainder comes to Rs.1,36,107/-. As per the age of the deceased, the multiplier of 15 shall be applicable. The loss of dependency comes to Rs.20,41,605/-.

9. The learned Tribunal has awarded only Rs.25,000/- towards loss of consortium to the widow and no amount has been awarded towards loss of love and affection to the children and mother. Smt. Baljit Kaur, the widow of deceased Jagmohan Singh shall be entitled to a sum of Rs.1,00,000/- towards loss of consortium instead of Rs.25,000/- as awarded by the Tribunal. Claimants No.2 & 3, the minor children of deceased shall be entitled to a sum of Rs.1,00,000/- towards loss of love, care and guidance. Claimant No.4 Gurmeet Kaur, the mother of the deceased shall also be entitled to a sum of Rs.1,00,000/- towards loss of love and affection of her son. The learned Tribunal has rightly awarded the medical expenses to the tune of Rs.1,20,822/-, Rs.25,000/- towards loss to estate and Rs.25,000/- towards funeral expenses. The total amount of compensation comes to Rs.25,12,427/-.

10. I do not find substance in the plea raised by learned counsel for the respondent-Insurance Company for reduction of rate of interest. The respondent-Insurance Company has not filed any cross-objection or the cross-appeal to challenge the rate of interest awarded by the learned Tribunal. In the absence thereof, there is no reason to reduce the rate of interest.

11. 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 Rs.25,12,427/- from Rs.19,65,207/- as awarded by the Tribunal. The appellants-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.

04.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**