IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.4932 of 2013 (O&M)

Date of decision : 22.11.2016

Kanta Devi and another

.....Appellants

Versus

Hukam Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. L.S. Mann, Advocate for appellants.

Mr. Gaurav Singla, Advocate for respondents No.1 & 2.

Ms. Vandana Malhotra, Advocate for respondent No.3.

Mr. R.K. Shukla, Advocate for respondents No.4 & 5.

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DARSHAN SINGH, J.

The present appeal has been preferred by by the appellants-claimants against the award dated 11.12.2012, passed by learned Motor Accidents Claims Tribunal, Fatehgarh Sahib (hereinafter called the "Tribunal") vide which the appellants and proforma respondents No.4 & 5 (who were the claimants before the Tribunal) have been awarded compensation to the tune of Rs.12,46,780/- on account of death of Ravinder Kumar in the motor vehicular accident, which took place on 02.08.2010.

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

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3. I have heard learned counsel for the parties and have gone through the record of the case carefully.

4. Initiating the arguments, learned counsel for the appellants-claimants contended that the learned Tribunal has not awarded any future prospects towards the income of the deceased. No amount has been awarded at all towards loss of consortium to claimant No.1-widow of the deceased. Nothing has been awarded to claimant No.2-minor son of the deceased towards loss of love, care and guidance of his father. No amount has been awarded to appellant No.1 Smt. Kanta Devi towards love and affection of her young son. No funeral and last rites expenses have been awarded by the learned Tribunal. Thus, he contended that the compensation awarded by the learned Tribunal is highly inadequate.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the deceased was not having any permanent job, so future prospects were not admissible towards his income. He further contended that the compensation awarded by the learned Tribunal is just and appropriate keeping in view the antecedents, age and income of the deceased.

6. I have duly considered the aforesaid contentions.

7. Learned Tribunal while taking into consideration the income tax return Ex.C4 of the deceased has determined the income of the deceased to be Rs.1,10,000/- per annum, wherein there is no fault. However, the learned Tribunal has not awarded any future prospects towards the income of the deceased. The deceased was only 28 years of age at the time of his

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accidental death. He was running a Laboratory at Chunni Kalan, Tehsil Bassi Pathana and had filed income tax returns. It was also not disputed that he was hale and hearty at the time of his death. So, with the passage of time, his income was bound to increase. So, there was no reason not to add the future prospects to the income of the deceased. As already mentioned, the deceased was 28 years of age on the date of his accidental death, so he was below 40 years of age and 50% of his income is required to be added towards the future prospects. In this way, the total income of the deceased comes to Rs.1,65,000/- per annum. Keeping in view the dependant family members of the deceased, 1/3rd of the income of the deceased is to be deducted towards his personal and living expenses. The remainder comes to Rs.1,10,000/-. The learned Tribunal has rightly applied the multiplier of 17, so the loss of dependency comes to Rs.18,70,000/-

8. The learned Tribunal has not awarded anything to claimant Nisha the widow of the deceased towards loss of consortium. Nothing has been awarded towards loss of of love and affection to appellant No.1-claimant Smt. Kanta the mother of the deceased and to claimant No.2-minor son of the deceased. The appellants-claimants have also not been awarded anything on account of funeral expenses and last rites. Claimant No.1 Nisha, the widow of the deceased shall be entitled to a sum of Rs.1,00,000/- towards loss of consortium. Claimant No.2 Mridual the minor son of the deceased shall also be entitled to a sum of Rs.1,00,000/- towards loss of love, care and guidance of his father. Appellant No.1 Smt. Kanta Devi, the mother of the deceased shall be entitled to a sum of Rs.1,00,000/- on

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account of loss of love and affection of her young son. The appellants-claimants shall also be entitled to a sum of Rs.25,000/- towards funeral and last rites expenses. Thus, the total amount of compensation payable to the claimants comes to Rs.21,95,000/-

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 Rs.21,95,000/- from Rs.12,46,780/- as awarded by the Tribunal. The claimants shall be entitled to the interest @ 7.5% per annum on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation and the apportionment amongst the claimants shall remain same as determined by the learned Tribunal in the main award.

10. As the matter with respect to future prospects has been referred to the Larger Bench of the Hon'ble Apex Court in case ***National Insurance Company Vs. Pushpa, (2015) 9 SCC 166***, in order to safeguard the interest of respondent No.3-Insurance Company, the amount of compensation under the head future prospects shall be disbursed to the claimants against adequate security in the form of sufficient indemnity bonds to the satisfaction of the learned Tribunal/executing Court, wherein the claimants will undertake that if the Hon'ble Apex Court adjudicates that the casual labourers/persons not holding the permanent jobs will not be entitled to the future prospects, then they will be bound to refund the amount of future prospects received by them on moving the requisite application by the respondent-Insurance Company and the learned Tribunal

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will be competent to take the steps without making any reference to this Court.

22.11.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No

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