

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

FAO No.5213 of 2013 (O&M)

Date of decision : 02.08.2016

Lallu Ram and others

.....Appellants

Versus

Yusuf Khan and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Kunal Dawar, Advocate for appellants.

Respondent No.1 proceeded against *ex parte*.

Mr. Munfaid Khan, Advocate for respondent No.2.

Mrs. Suman Jain, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 23.08.2013, passed by the learned Motor Accidents Claims Tribunal, Faridabad (hereinafter called the “Tribunal”) vide which the appellants-claimants No.2 to 6 have been awarded a sum of ₹ 16,00,000/- as compensation on account of death of Mukesh as a result of injuries suffered by him in the motor vehicular accident, which took place on 10.08.2010.

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 deceased Mukesh was 27 years of age and was working as Site Supervisor with M/s D.S. Wood Tech Pvt. Ltd., village Mithaka, P.S. Hathin, Distt. Palwal and was getting salary at the rate of ₹ 15,500/- per month. He further contended that the learned Tribunal has not awarded any amount towards future prospects to the income of the deceased. Nothing has been awarded to the widow of deceased towards loss of consortium. Very less amount has been awarded to three minor children on account of loss of love and affection. No amount has been awarded to the parents for loss of love and affection of their son. Thus, he contended that the learned Tribunal has not awarded the just compensation.

4. On the other hand, learned counsel appearing for the respondents contended that the deceased was not a regular employee of M/s Wood Tech Pvt. Ltd. but was working on contractual basis and, therefore, no future prospects could have been added to his income. The compensation has been adequately awarded under the other conventional heads. Thus, he contended that there is no scope of any further enhancement in the amount of compensation.

5. I have duly considered the aforesaid contentions and found considerable substance in the contentions raised by learned counsel for the appellants-claimants.

6. The learned Tribunal on appreciation of the entire evidence determined the income of the deceased to be ₹ 10,000/- per month. The deceased was working as Site Supervisor with M/s Wood Tech Pvt. Ltd. on

contractual basis. In view of the designation of the deceased his income was bound to increase with the passage of time. But the learned Tribunal has erroneously not taken into consideration the question of granting future prospects to the income of the deceased. At the time of death the deceased was 27 years of age, so 50% of his income shall be added towards the future prospects. The total income of the deceased comes to ₹ 15,000/- per month *i.e.* ₹ 1,80,000/- per annum. There were five dependents, so 1/4th of the income of the deceased shall be deducted towards his personal and living expenses. The remainder comes to ₹ 1,35,000/-. In view of the age of the deceased, the multiplier of 17 shall be applicable. So, the loss of dependency comes to ₹ 22,95,000/-. In addition to that appellants-claimant No.3 Smt. Maya the widow of deceased Mukesh shall be entitled to ₹ 1,00,000/- towards loss of consortium. Appellant-claimant No.2 Smt. Laxmi the mother of the deceased shall also be entitled to ₹ 1,00,000/- on account of loss of love and affection of her son. All the three minor children of the deceased shall also be entitled to ₹ 1,00,000/- on account of loss of love, care and guidance. The appellants-claimants shall also be entitled to ₹ 25,000/- towards funeral expenses. The total amount of compensation payable to the claimants comes to ₹ 26,20,000/-.

7. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants No.2 to 6 is enhanced to ₹ 26,20,000/- from ₹ 16,00,000/- as awarded by the Tribunal. The appellants-claimants shall also 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.

02.08.2016
sunil yadav

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No