

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

-.-

FAO 4768 of 2014

Date of decision: 26.08.2016

Deep Kumari and another

.....Appellants

Versus

Tara Chand and others

.....Respondent(s)

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Ashwani Bakshi, Advocate
for the appellants

Mr. S S Taank, Advocate for
Mr. M S Longia, Advocate
for respondent No. 1

Mr. Kapil Bansal, AAG, Haryana
for respondents No. 2 and 3

Mr. Vinod Chaudhari, Advocate
for respondent No. 4- Insurance Company

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Gaurav in a motor vehicular accident that took place on 31.08.2012.

The Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (in short, the tribunal) has assessed income of the deceased at Rs.3,000.00 per month; deducted 50% towards his personal expenses and adopted a multiplier of 18 to compute loss of dependency. Another amount of Rs.2,000.00 on account of funeral expenses and Rs.5,000.00 for transportation were awarded, making total compensation to the tune of

Rs.3,31,000.00.

Counsel for the appellants has contended that it has been proved on record that the deceased was a student of Electrical Engineering Ist Year in Yamuna Polytechnic for Engineering, Gadhoul, therefore, his income should be assessed more than the one fixed by State of Haryana for a highly skilled person. It is further argued that benefit of increase in income for future prospects requires to be granted and compensation awarded under conventional heads needs re-look and enhancement.

Counsel for the respondents have supported the award passed by the learned tribunal.

Counsel for the Insurance Company has submitted that as the matter with regard to grant of future prospects is pending consideration before a Larger Bench of the Apex Court in view of reference made in ***National Insurance Company Limited v. Pushpa*** (SLP (c) No. 16735 of 2014, decided on 02.07.2014) and observations made by the Apex Court in ***Shashikala and others v. Gangalakshamma and another***, 2015 ACJ 1239, the same should not be allowed.

I have heard counsel for the appellants and perused the paper book particularly the award impugned.

Counsel for the respondents have not disputed that the deceased was a student of three years course of diploma in Electrical Engineering. Had he not died, he would have completed his technical qualification. In August 2012, the minimum wage available to a highly skilled worker, fixed by State of Haryana, was more than Rs.5,600.00. In view of qualification, deceased was to complete in a short span coupled with minimum wage

fixed for a highly skilled worker, in my considered opinion, interest of justice would be served, if income of the deceased is assessed at Rs.6,000.00 per month. With regard to future prospects, pendency of matter before a larger Bench is not sufficient to deny said benefit till judgment in ***Rajesh and others v. Rajbir Singh and others (2013) 9 SCC 54*** is varied or set aside. The claimants are allowed addition in income by way of future prospects to the extent of 50%. In view of the aforesaid, loss of dependency comes to Rs.9,000.00 (Rs.6,000.00 + Rs.3,000.00) x 12 x 18 = Rs.19,44,000.00 – Rs.9,72,000.00 (50% deduction for personal expenses) = **Rs.9,72,000.00.**

The appellants shall be entitled to Rs.25,000.00 each for expenses of funeral and loss of estate. Deep Kumari, mother of the deceased (widow) is awarded Rs.50,000.00 for loss of love and affection. The total compensation payable to the claimants comes to **Rs.10,72,000.00** (Rs.9,72,000.00 + Rs.25,000.00 + Rs.25,000.00 + Rs.50,000.00) and the enhanced compensation is **Rs.7,41,000.00** (Rs.10,72,000.00 - Rs.3,31,000.00), payable with interest @ 7.5% per annum from the date of filling of petition till realization, which shall be payable exclusively to Smt. Deep Kumari, mother of the deceased. The enhanced compensation shall be deposited in a FDR for a period of one year.

Disposed of accordingly.

(Rekha Mittal)
Judge

26.08.2016
mohan bimbura

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No