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

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FAO 570 of 2013 (O&M)
Date of decision: 21.07.2016

*Smt. Manju Devi and others* ........*Appellants*

*Versus*

*Mohd. Khalif and others* .......*Respondents*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. B K Chaudhary, Advocate for
Mr. Pankaj Bali, Advocate
for the appellants

Mr. Lalit Garg, Advocate
for respondent No. 3

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**Rekha Mittal, J.** (Oral)

The claimants are in appeal seeking enhancement of compensation in respect of death of Arun Singh in a motor vehicular accident that occurred on 09.09.2008 in the area of Village Sidhana District Panipat.

The learned Tribunal assessed income of deceased at Rs.3,000.00 after deducting 1/4$^{th}$ towards his personal expenses; adopted multiplier of 15 and assessed loss of dependency to the tune of Rs.5,40,000.00 (Rs.3,000.00x12x15). Another amount of Rs.5,000/- each has been awarded for loss of consortium, funeral expenses and loss of estate. The total compensation assessed by the Tribunal comes to Rs.5,50,000.00.

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income towards future prospects and compensation awarded under conventional heads needs enhancement in the light of judgments of Hon'ble the Apex Court ***Rajesh and others vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170*** and ***Vimal Kanwar and others v. Kishore Dan and others, 2013 (2) RCR (Civil) 945.***

Counsel for the insurance Company (Oriental Insurance Company Limited) has supported the award passed by the Tribunal with the submissions that no benefit of increase in income for future prospects is to be allowed as the matter 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 the observations made by the Apex Court in ***Shashikala and others v. Gangalakshmamma and another, 2015 ACJ 1239.*** In the alternative, it is argued that if such a benefit is allowed, amount payable for future prospects should be allowed to be released subject to furnishing of adequate security to ensure its recovery, in case the judgment in Rajesh's case (supra) is set aside**.**

It is further argued that interest on the amount awarded for future prospects is not payable. For this purpose, he has relied upon judgment of Hon'ble the Apex Court ***R.D.Hattangadi v. M/s Pest Control (India) Pvt. Limited and others, A.I.R. 1995 SC 755***. Reference has also been made to judgment of this Court ***National Insurance Company Limited v. Jatinder Singh and others,*** *FAO No. 2268 of 2000 along with connected matters, decided on 13.05.2015.*

I have heard counsel for the parties and perused the paper book particularly the award passed by the Tribunal.

The learned Tribunal has not allowed benefit of increase in income for future prospects in consonance with the judgment in Rajesh's case (supra). The mere fact that the matter with regard to future prospects is pending consideration before a Larger Bench is not sufficient to deny the said benefit till the time judgment in Rajesh's case (supra) is varied much less set aside. After allowing benefit of increase in income for future prospects to the extent of 50%, loss of dependency comes to Rs.5,40,000.00 + Rs.2,70,000.00 = **Rs.8,10,000.00**. The widow of the deceased shall be entitled to a sum of Rs.1,00,000.00 towards loss of consortium. The minor children are allowed an amount of **Rs.2,25,000.00** in equal share for loss of love and affection. The appellants are awarded an amount of **Rs.25,000.00** each for funeral expenses and loss of estate. The total compensation payable to the appellants comes to **Rs.11,85,000.00** (Rs.8,10,000.00 + Rs.1,00,000.00 + Rs.2,25,000.00 + Rs.50,000.00) and the enhanced compensation is R**s.6,35,000.00** (Rs.11,85,000-Rs.5,50,000).

The enhanced compensation shall be payable to widow of the deceased except the amount awarded to minor claimants towards loss of love and affection payable according to their entitlement discussed hereinbefore. The compensation awarded to the minors shall be deposited in the shape of FDR's in a nationalized bank till they attain the age of majority. The amount of interest accruing on the FDR's shall be payable to mother of the minors to meet expenses on their education and living.

This brings the Court to the question of payment of interest on benefit of future prospects. The question with regard to addition in income for future prospects was raised in ***Kerala SRTC v Susamma Thomas (1994) 2 SCC 176.*** Later, in ***Sarla Verma (Smt.) and others v. Delhi***

***Transport Corporation and another (2009) 6 SCC 121***, the Apex Court culled out question No. 1 in regard to addition to income for future prospects by relying upon earlier judgment ***Abati Bezbaruah v. Geological Survey of India (2003) 2 SCC 148*** and *Susamma Thomas (supra)* and held in view of imponderables and uncertainties in favour of adopting as a rule of thumb an addition of 50% of actual salary of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years and 30% if age of the deceased was 40 to 50 years and there being no addition where age of the deceased is more than 50 years. After allowing benefit of future prospects, compensation to the tune of Rs.1,65,246.00 was enhanced and the same was held payable with interest at the rate of 6% per annum from the date of petition till the date of realization, payable to the widow exclusively. The Apex Court in Sarla Verma's case (supra) has laid down various principles with an intent to bring uniformity in assessment of compensation in motor vehicle accident claims. A similar benefit of increase in income for future prospects was extended to the claimants where the deceased happened to be self employed or working on fixed wage in Rajesh's case (supra). In Rajesh's case (supra), the claimants were held entitled to total compensation of Rs.22,81,320.00 including 50% increase in income as future prospects. The claimants were held entitled to total compensation with interest at the rate of 7.5% per annum from 26.11.2007 *i.e.* date of filing of the petition till realization. The Court, in the aforesaid judgments, may not have specifically dealt with the question of payment of interest on compensation awarded for future prospects but the very fact that interest was allowed on the entire sum found to be payable to the claimants, I find it difficult to accept contention of respondent No. 3 - insurance

Company that interest is not liable to be paid on the amount calculated for increase in income as future prospects.

Analyzed from another angle, the claimants are paid compensation as a lump sum by taking into consideration the amount that the deceased would have earned over a number of years, known as 'multiplier'. If interest is payable on lump-sum amount by multiplying the multiplicand (income at the time of death), there is no reason to deny interest on the increased income with an appropriate multiplier representing the number of years the deceased would have earned the same amount in future, for future prospects. If the claimants are not allowed interest on the amount payable as future prospects, the same would create an anomaly when otherwise the Courts always try to remove anomalous situations. In this view of the matter, contention raised by counsel for respondent No. 3 that interest on compensation for future prospects should be denied to the appellants, is misconceived and thus untenable. The judgment in *R.D. Hattangdi's* case (supra) deals with an injury case and does not lay down any such ratio favourable to the insurer.

In view of the above, the appeal is partly allowed, compensation is enhanced to the tune of Rs.6,35,000.00, payable with interest at the rate of 7.5% per annum from the date of petition till realization. The enhanced compensation payable to the widow shall be deposited in an FDR for a period of two years.

Disposed of accordingly.

(Rekha Mittal)
Judge

21.07.2016
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No