

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5517 of 2014 (O&M)
Date of Decision : 12.02.2016

Shri Ram General Insurance Company Ltd.Appellant

Versus

Sangeeta and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Kaavya, Advocate
for Mr. T.N. Joshi, Advocate
for the appellant-Insurance Company.

Surinder Gupta, J. (Oral)

This is appeal by Shri Ram General Insurance Company Ltd. against the award dated 03.02.2014, passed by the Motor Accident Claims Tribunal, Jhajjar (later referred to as 'the Tribunal') whereby compensation of ₹11,90,800/- was allowed to claimants for death of Sushil Kumar in a motor vehicle accident with truck bearing registration No. HR-69-A-7411, insured with the appellant. The deceased was 29 years of age at the time of his death. He was engaged in business of sale of vegetables and fruits. The Tribunal assessed his monthly income as ₹5200/- and then allowed 50% addition of his actual income towards future prospects as per observations in the case of **Rajesh and others vs. Rajbir and others, (2013) 9 SCC 54.** 1/3rd income of the deceased was deducted towards his personal expenses and on applying the multiplier of 17, the amount of dependency was calculated as ₹10,60,800/- to which ₹1 lac was

added as compensation towards loss of consortium, ₹2500/- towards funeral expenses and ₹5000/- towards loss of estate.

2. Facts of the case are not being discussed in detail as the appellant has challenged the award only on the quantum of compensation.

3. Learned counsel for the appellant has argued that the Tribunal has wrongly allowed 50% addition in income of the deceased towards future prospects, particularly when the matter is under consideration before the Hon'ble Apex Court in the reference made in case of **National Insurance Company Limited Vs. Pushpa and others Appeal (C) No.8058 of 2014 decided on 02.07.2014 (MANU/SC/1246/2014)**.

4. In the case of **Pushpa (supra)**, while differing with the view taken in case of **Sarla Verma and others vs. Delhi Transport Corporation and anr. (2009)6 SCC 121**, it was observed as follows:-

*“18. Therefore, we do not think that while making the observations in the last three lines of para 24 of **Sarla Verma** judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be*

applied for calculating the amount of compensation.”

5. In case of **Rajesh (supra)**, a three Judges Bench of Hon'ble Apex Court has observed in para 11 and 12 as follows:-

“11. Since, the Court in **Santosh Devi's case**¹ (supra) actually intended to follow the principle in the case of salaried persons as laid in **Sarla Verma's case** (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.

12. In **Sarla Verma's case** (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will

¹Santosh Devi v. National Insurance Co. Limited, (2012) 6 SCC 421

only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter. ”

6. Reference was made to a larger Bench of Hon'ble Apex Court in case of ***Pushpa (supra)***, on 02.07.2014. In the recent judgment dated May 15, 2015 in case titled ***Munna Lal Jain and others vs. Vipin Kumar Sharma and others 2015 (3) RCR (Civil) 447***, a three Judges Bench of Hon'ble Apex Court allowed future prospects in the case of self-employed persons following the observations made in case of ***Rajesh (supra)***.

7. The concept of future prospects envisages chances or opportunities for success and further progress in life which is a normal course of event for every human being involved in any avocation. Even if, keeping in view his ability, capacity etc., one may not be in a position to rise in life, there is another aspect that justifies the grant of addition in the income of the deceased, which is the 'inflationary trend' in which we all are living. I take instance of a tailor. It is a matter of common knowledge that stitching charges have increased manifold during last two decades due to increase in expenses of material/labour charges/margin of persons in this profession, with consequential increase in their income. This is because of high increase in the cost of living. The dependents of a deceased in accident have also to face the same situation. The amount of compensation is required to be just and reasonable keeping the inflationary trend

in view, where the prices of the basic amenities of life are likely to increase further.

8. As the view taken in case of ***Rajesh (supra)*** has been followed by the Hon'ble Apex Court in ***Munna Lal Jain (supra)***, the Tribunal while computing amount of compensation awarded to claimants committed no error by allowing 50% addition of the income towards future prospects.

No interference in the award on this score is called for.

No other point has been argued by learned counsel for the appellant.

This appeal has no merits. Dismissed.

February 12, 2016
jk

(SURINDER GUPTA)
JUDGE