IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.6323 of 2013
Date of decision : 22.03.2016

Kamlesh Devi and others

......Appellants

Versus

Pawan Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. *Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
2. *To be referred to the Reporters or not ? Yes*
3. *Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Mayur Kanwar, Advocate for
Mr. Vivek Suri, Advocate for appellants.

Ms. Rinku Dahiya, Advocate for
Mrs. Monisha Beniwal, Advocate for respondent No.3-Insurance Company.

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DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 17.08.2013, passed by the learned Motor Accidents Claims Tribunal, Panchkula (hereinafter called the Tribunal), vide which appellant-claimant No.1 Smt. Kamlesh Devi has been awarded compensation to the tune of Rs.5,50,000/- on account of death of her son Rajiv alias Raju in the motor vehicular accident, which took place on 22.6.2011.

2. The present appeal has been preferred by appellants-

claimants for enhancement of the amount of compensation.

3. Learned counsel for the appellants contended that the learned Tribunal has not added the future prospects to the income of the deceased. The deceased was 25 years of age. 50% of the income of the deceased should have been added towards the future prospects. He further contended that the multiplier has also been wrongly applied as per the age of the parents, which should have been applied as per the age of the deceased. No amount has been awarded to appellant-claimant No.1, the mother of the deceased, towards loss of love and affection. Thus, he contended that the learned Tribunal has awarded the inadequate amount of compensation.

4. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased was only a labourer. He was not holding any permanent job having regular increments. So, the learned Tribunal has rightly declined the future prospects to the income of the deceased. She further contended that just compensation has been awarded under all other heads. Thus, she contended that the impugned award does not suffer from any illegality.

5. I have duly considered the aforesaid contentions.

6. I found considerable substance in the contentions raised by learned counsel for the appellants.

7. Deceased Rajiv alias Raju was 25 years of age at the time of his death. The learned Tribunal has determined the income of the deceased as Rs.6250/- per month on the basis of the notification

regarding minimum wages issued by the Deputy Commissioner, Panchkula. But this fact is not disputed that he was a young man of 25 years of age. Even if he was working as a labourer, there were bright prospects of appreciation of his income with the passage of time. The Hon'ble Apex Court in cases ***Rajesh and others Vs. Rajbir and others 2013(3) RCR (Civil) 170*** and ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304,*** has laid down that future prospects are even admissible to the persons who are self-employed. So, the future prospects should have been added to the income of the deceased. As already mentioned deceased was 25 years of age at the time of his death, so 50% of his income should have been added towards future prospects. The total income in this way comes to Rs.9375/- per month (6250+3125).

8. The learned Tribunal has rightly deducted 50% of the income of the deceased towards his personal and living expenses. The remainder comes to Rs.4687.50. To make it a found figure, we can take Rs.4688/- per month. The annual income of the deceased comes to Rs.56,256/-.

9. The Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others*** (supra) has laid down that the multiplier will be applicable as per the age of the deceased. So, the learned Tribunal has wrongly applied the multiplier as per the age of the mother of the deceased. In view of the age of the deceased, the multiplier of 18 shall be applicable. The loss of dependency comes to

Rs.10,12,608/- (56,256 x 18).

10. In addition to that, Smt. Kamlesh Devi, the mother of the deceased shall also be entitled to a sum of Rs.1,00,000/- on account of loss of love and affection of her son. Reference can be made to case ***Vimal Kanwar and others Vs. Kishore Dan and others 2013 (2) RCR (Civil) 945.***

11. The learned Tribunal has rightly awarded the funeral expenses to the tune of Rs.25,000/-. So, the total amount of compensation payable to appellant-claimant No.1 comes to Rs.11,37,608/- [10,12,608 *(loss of dependency)* + 100000 *(loss of love & affection)* + 25000 *(funeral expenses)*].

12. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.11,37,608/- from Rs.5,50,000/- as awarded by the learned Tribunal. Appellant-claimant No.1 shall be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate, as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

22.03.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**