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

**(1)** **FAO No.5772 of 2014**
**Date of decision : 26.02.2016**

**Oriental Insurance Company Ltd.**

......Appellant

*Versus*

**Salinder Kaur and others**

...Respondents

**(2)** **FAO No.5943 of 2014**
**Date of decision : 26.02.2016**

**Smt. Salinder Kaur and another**

......Appellants

*Versus*

**Ranbir Singh 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. Ashwani Talwar, Advocate for appellant in FAO No.5772.

Mr. Ashwani Arora, Advocate for respondents No.1 & 2 in FAO No.5772 and for appellants in FAO No.5943 of 2014.

Mr. Suvir Dewan, Advocate for respondent No.3 in FAO No.5943 of 2014.

Respondent No.4 ex parte.

Ms. Vandana Malhotra, Advocate for respondent No.7 in FAO No.5772 and for respondent No.6 in FAO No.5943 of 2014.

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**DARSHAN SINGH, J.**

This judgment of mine shall dispose of both the appeals mentioned above, which have arisen out of the same award dated 07.03.2014 passed by learned Motor Accidents Claims Tribunal, SAS Nagar Mohali (hereinafter called the 'Tribunal'), vide which the appellants-claimants of FAO No.5943 of 2014 have been awarded compensation to the tune of Rs.7,52,000/- along with interest @ of 9% per annum from the date of filing the petition till realisation on account of death of their son Sarabjit Singh in the motor vehicular accident which took place on 30.06.2012.

2. FAO No.5772 of 2014 has been filed by the Oriental Insurance Company Ltd. the insurer of Indigo car bearing registration No.PB-65R-2418 to assail the award. FAO No.5943 of 2014 has been filed by the claimants for enhancement of compensation.

3. It is pertinent to mention that the claimants have impleaded the driver, owner and insurer of both the vehicles i.e. Indigo car bearing registration No.PB-65R-2418 and Ritz car bearing registration No.HR-26BB-3863 involved in the accident. However, the learned Tribunal has dismissed the claim petition qua the driver, owner and insurer of Ritz car bearing registration No.HR-26BB-3863 and the claim petition was allowed only against the driver, owner and insurer of Indigo car bearing registration No.PB-65R-2418 (respondents No.1 o 3 in the claim petition).

4. FAO No.5772 of 2014 has been filed by the appellant-Oriental Insurance Company Ltd. to challenge the award passed in favour of respondents No.1 & 2. No relief has been sought against respondents No.3, 5 and 6. So, notice to respondents No.3, 5 and 6 was dispensed with.

5. Initiating the arguments, Mr. Ashwani Talwar, Advocate,

learned counsel for the appellant-Insurance Company contended that the compensation computed by the learned Tribunal is exorbitant. Deceased Sarabjit Singh, the son of the claimants was not doing any permanent job. So, the learned Tribunal was not justified while granting the award towards the future prospects.

6. On the other hand, Mr. Ashwani Arora, Advocate, learned counsel for the appellants of FAO No.5943 of 2014 and respondents No.1 & 2 in FAO No.5772 of 2014 contended that the deceased was self-employed. He was electrician by profession. So, the future prospects were required to be added to the income of the deceased. He further contended that as per the law laid down by the Hon'ble Apex Court in case ***Sarla Verma and others Vs. Delhi Transport Cooperation and another (2009) 6 SCC 121,*** the claimants were entitled for addition of 50% of the income of the deceased as future prospects but the learned Tribunal has added only 30% of the salary of the deceased towards future prospects. He further contended that no amount has been awarded to the claimants on account of loss of love and affection of their son. Thus, he contended that the compensation computed by the learned Tribunal is not just and appropriate.

7. I have duly considered the aforesaid contentions.

8. I do not find any substance in the contentions raised by learned counsel for the appellant-Insurance Company that no future prospects were required to be added to the income of the deceased Sarabjit Singh. Deceased Sarabjit Singh was a young man of 25 years of age. The learned Tribunal has taken the income of the deceased to be Rs.5000/- per month i.e. Rs.60,000/- per annum. It is a known fact that even the self-employed persons get appreciation in their income with the passage of time.

So, it cannot be stated that the future prospects can only be added to the salary/income of victims who were having the permanent job and no future prospects can be added to the income of the self-employed person. In a latest judgment rendered by three-Judges Bench of the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the future prospects were allowed in case of the self-employed person following the observations in ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54***, wherein it was laid down as under :-

> *"11. As far as future prospects are concerned, in Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54, a three-Judge Bench of this Court held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects. To quote:*
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> > *"8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma case 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."*
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> *The deceased being of the age of 30 years, 50% is the required addition."*

9. In view of the aforesaid ratio of law, the future prospects were required to be added to the income of deceased Sarabjit Singh.

10. This fact is not disputed that deceased Sarabjit Singh was 25 years of age at the time of the accident. So, he was far below the age of

40 years. As per the law laid down by the Hon'ble Apex Court in ***Sarla Verma and others Vs. Delhi Transport Cooperation and another*** (supra) 50% should have been added to the income of the deceased towards future prospects. After adding 50% of the future prospects to the income of the deceased, the total income comes to Rs.90,000/- (60,000+30,000). As the deceased was bachelor and the claimants are his parents, so 50% of his income shall be deducted towards his living and personal expenses. The remainder comes to Rs.45,000/- per annum. In view of the age of the deceased, the multiplier of 18 shall be applicable. The multiplicand comes to Rs.8,10,000/-. So, the appellants-claimants shall be entitled to a sum of Rs.8,10,000/- towards loss of dependency instead of Rs.7,02,000/-, as awarded by the learned Tribunal.

11. The learned Tribunal has not awarded any amount towards loss of love and affection to the claimants. They are awarded Rs.50,000/- towards loss of love and affection.

12. The learned Tribunal has rightly awarded Rs.25,000/- towards the funeral expenses and Rs.25,000/- towards loss to estate.

13. In this way, the total amount of compensation comes to as under:-

| **Sr. No.** | **Heads** | **Amount of compensation awarded by the Tribunal (in rupees)** | **Enhanced amount of compensation by this Court (in rupees)** |
|---|---|---|---|
| 1. | Loss of dependency | 7,02,000 | 8,10,000 |
| 2. | Loss of love and affection | - | 50,000 |
| 3. | Funeral expenses | 25,000 | 25000 |
| 4. | Loss to estate | 25,000 | 25,000 |
| | **Total** | **7,52,000** | **9,10,000** |

14. Thus, keeping in view my aforesaid discussion, FAO

No.5772 of 2014 filed by appellant-Oriental Insurance Company Ltd. being without merits is hereby dismissed. However, FAO No.5943 of 2014 filed by appellants-claimants Salinder Kaur and another is hereby partly allowed. The amount of compensation is enhanced to Rs.9,10,000/- from Rs.7,52,000/-, as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realization 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.

**26.02.2016** **( DARSHAN SINGH )**
*sunil yadav* **JUDGE**