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

FAO No.3308 of 2016(O&M)
Date of Decision: June 02, 2016

National Insurance Company Limited ...Appellant

Versus

Manjit Kaur and others ...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr. Navin Kapur, Advocate for
the appellant-Insurance Company.

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HARINDER SINGH SIDHU, J.

For the reasons mentioned in the application, delay of 33 days in filing the appeal is condoned subject to all just exceptions.

This is an appeal by the Insurance Company (National Insurance Company Limited) against the Award dated 06.01.2016 passed by the Motor Accident Claims Tribunal, Ferozepur (for short `the Tribunal'), whereby, compensation of Rs.19,45,000/- was awarded for the death of Sadiq in a vehicular accident.

Brief facts of the case are that on 17.10.2013, at about 8.45 AM, Sadiq (since deceased) along with Hardial Singh was going from Behak Pachharian bus stand to Zira by offending bus No.PB-02-BV-7894 driven by respondent No.7-Surjit Singh. On the request of Sadiq, the bus was stopped by Surjit Singh. When Sadiq tried to alight from the bus from the front door, its driver Surjit Singh suddenly moved the bus and due to that, Sadiq fell down on the road and the rear tyres of the bus passed over his abdomen.

Sadiq sustained multiple injuries. Hardial Singh arranged for a vehicle and shifted the injured to GGS Medical College and Hospital, Faridkot, where the doctor declared him dead. FIR No.210 dated 17.10.2013 under Sections 304-A/279 IPC was registered against Surjit Singh-driver of the offending bus at Police Station Zira.

The dependants of the deceased filed claim petition under Section 166 of the Motor Vehicles Act, 1988 claiming compensation.

Upon notice, respondent Nos.7 and 8 (the driver and owner of the offending vehicle) appeared and contested the claim petition disputing the accident.

Pleadings of the parties led to the framing of following issues:-

> "*1. Whether Sadiq son of Murad had died on account of injuries sustained by him in a motor vehicular accident which took place on 17.10.2013 at about 8.45 AM, in the area of Main Chowk, Zira, PS Zira, due to rash and negligent driving of bus bearing registration No.PB 02 BV 7894 by respondent No.1? OPP*
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> *2. Whether the claimants are entitled to the compensation, if so to what extent and from whom? OPA*
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> *3. Whether the claimants have no locus standi to file the petition? OPR*
>
> *4. Whether respondent No.1 was not having valid and effective driving license at the time of accident? OPR3.*
>
> *5. Whether the petition is not maintainable? OPR*
>
> *6. Relief.*"

Appreciating the evidence brought on record, the Tribunal assessed the age of the deceased in the age group of 41 to 45 years and his income was assessed at Rs.10,000/- per month. Increase of 30% in the income was granted towards future prospects and loss of dependency was assessed after deducting 1/4th towards personal and living expenses of the deceased and multiplier of 14 was applied.

Challenging the award, Ld. counsel for the appellant-Insurance Company has contended that though the Tribunal in the discussion under the issue held that 1/4th was required to be deducted on account of the personal and living expenses of the deceased but while tabulating the calculations, only a sum of Rs.2167/- was deducted out of the income of Rs.13000/-. He submits that 1/4th of Rs.13000/- comes to Rs.3250/-. Hence, the loss of monthly dependency was to be Rs.9750 (13000-3250) and not Rs.10,833/- as assessed by the Tribunal. He also argued that since the deceased was not having a permanent income so no increase on account of future prospects could have been granted.

So far as the wrong calculation highlighted by the learned counsel is concerned, there appears to be an inadvertent error while calculating the amount of dependency. The Tribunal has awarded compensation as under:

Sr. No.	Heads	Amount
1.	Monthly income	10000/-
2.	30% addition on account of future prospects	10000+3000=13000/-
3	Monthly contribution after deduction to the extent of 1/4th on account of personal expenses	13000-2167=10,833/-
4	Annual dependency	10833 x 14=129996/- (Say Rs 130000/-)
5	Compensation after applying	130000x14=1820000/

	multiplier of "14"	-
6	Loss of consortium	100000/-
6	Funeral expenses	25000/-
	TOTAL	**Rs.19,45,000/-**

The loss of dependency assessed by the Tribunal is Rs.18,20,000/-, whereas, if the calculation is made correctly it comes to Rs.16,38,000/- [(13000-3250)x12x14]. Thus if the calculation is made correctly the amount of compensation is required to be decreased by Rs.1,82,000/-. But this court cannot lose sight of the fact that though there were 5 children of the deceased, but the Tribunal has not awarded any amount under the head of loss of love and affection. If Rs.50,000/- are awarded for each child under this head, then the compensation amount goes higher than what has been awarded by the Tribunal. Keeping in view these facts and circumstances this court does not find it proper to interfere with the award of the Tribunal.

On the issue of increase on account of future prospects in the income to the deceased, this court in various first appeals including **FAO No.1207 of 2014 titled "Reliance General Insurance Company Ltd. vs. Sayera Khatoon and others**" decided on 3.3.2014, **FAO No.1502 of 2015 titled "National Insurance Company Limited vs. Pushpa Singh Chauhan and others" decided on 20.3.2015 and FAO No.4299 of 2015 titled "Oriental Insurance Company Limited vs. Swarna Devi and others"** decided on 1.9.2015 has upheld the addition to the income towards future prospects, where, the deceased were either self-employed or working in un-organised sectors. The Special Leave Petitions filed against the aforesaid decisions have been dismissed by the Hon'ble Supreme Court. All these decisions are after the reference to the larger bench in **National Insurance Company Limited vs. Pushpa, 2015(9) SCC 166**.

The view taken in **Rajesh and others Vs. Rajbir and others (2013)9 SCC 54** has been followed by the Hon'ble Apex Court in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(6) SCC 347**, as also by this Court in various decisions (referred to above), SLPs against which have been dismissed after the reference in Pushpa's case (supra). Thus, the Tribunal has committed no error while allowing 30% addition in the income towards future prospects and granting compensation to the claimants accordingly.

No other point was argued.

Appeal dismissed.

June 02, 2016 **(HARINDER SINGH SIDHU)**
gian **JUDGE**