

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

**FAO No.6162 of 2014
Decided on: 05.08.2016**

Som Nath and another

....Appellants

Versus

Harish Kumar and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. R.S. Budhwar, Advocate
for the appellants.

Mr. Ajay Kaushik, Advocate
for respondents No.1 and 2.

Mr. Pradeep Kumar, Advocate
for respondent No.3.

REKHA MITTAL, J.

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for brevity 'the Tribunal') in respect of death of Kuldeep son of Som Nath in a motor vehicular accident that occurred on 07.09.2012.

Counsel for the appellants would contend that the deceased was 22 years' old but the Tribunal has adopted a multiplier of 14 in place of 18 and the benefit of increase in income for future prospects has not been allowed. The parents have not been granted any compensation for loss of love and affection. The compensation awarded for funeral expenses needs enhancement.

Counsel for Future General India Insurance Company Limited (in short 'the Company') has submitted that benefit of future

prospects should not be allowed as the matter is pending consideration before a Larger Bench of Hon'ble the Supreme Court of India ***“National Insurance Company Limited Vs Pushpa and others”*** vide ***SLP No.8058/2014***. In the alternative, it is submitted that if the said benefit is so allowed, the amount representing future prospects should not be allowed to be disbursed till reference is answered by the Larger Bench.

I have heard counsel for the parties and perused the paperbook with their able assistance.

There is no dispute that a multiplier is to be adopted in view of age of the deceased in place of age of the parents. That being so, the claimants shall be entitled to compensation by applying the multiplier of 18 in place of 14.

The appellants shall be entitled to an amount of ***Rs.25,000/-*** for funeral expenses. The amount of Rs.10,000/- is allowed to mother of the deceased for consortium is set-aside as the consortium is payable to widow of the deceased. However, the mother of the deceased is allowed an amount of ***Rs.50,000/-*** towards loss of love and affection.

So far as the plea with regard to non-grant of benefit of future prospects or in the alternative for non-disbursement of amount representing benefit of increase in income for future prospects is concerned, the same is not tenable because till the time the judgment passed by Hon'ble the Apex Court ***“Rajesh and others Vs. Rajbir Singh and others”***, 2013(3) R.C.R. (Civil) 170, is set-aside in appropriate proceedings, the claimants shall be entitled to the said

benefit. After allowing benefit of increase in income for future prospects, loss of dependency comes to **Rs.8,10,000/-** (Rs.5,000 x 12 x 18 =Rs.10,80,000/- + Rs.5,40,000/- (50% for future prospects) = Rs.16,20,000/- – Rs.8,10,000/- (50% deduction towards personal expenses). The total compensation payable to the claimants comes to **Rs.8,85,000/-**. The enhanced compensation is calculated at **Rs.4,42,000/-** (Rs.8,85,000/- – Rs.4,43,000/-). The amount of enhanced compensation shall carry interest @ 7.5% per annum from the date of filing of the petition till realization and shall be deposited in the shape of FDR in a nationalized bank for a period of five years. The appellants shall not be entitled to raise any loan against the FDR. The mother shall be entitled to file an appropriate application for premature release of FDR in case the circumstances so warrant and the same would be decided by the Tribunal, in accordance with law.

Disposed of accordingly.

05.08.2016
yakub

(REKHA MITTAL)
JUDGE

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