

FAO No.4875 of 2015(O&M)

In the High Court of Punjab and Haryana at Chandigarh

FAO No.4875 of 2015(O&M)

Date of Decision: 9.12.2016

Javed and others

---Appellants

versus

Ishaque and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Rajesh Bhateja, Advocate
for the appellants**

**Mr. Suvir Dewan, Advocate
for respondent No. 3**

Rekha Mittal, J.

The claimants are in appeal seeking enhancement of compensation in respect of death of Mubeen Khan in a motor vehicular accident that took place on 17.2.2014.

The Motor Accidents Claims Tribunal, Mewat (in short “the Tribunal”) assessed income of the deceased at Rs. 5550/-, deducted 1/5th for personal expenses, applied multiplier of 13 and computed loss of

dependency at Rs. 6,92,640/-. In addition, an amount of Rs. 10,000/- for loss of consortium and Rs. 25,000/- for funeral expenses was awarded making total compensation to Rs. 7,27,640/-.

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects and compensation awarded under conventional heads needs enhancement. It is argued that the deceased left behind nine children though two of them were held to be not dependent upon his earnings.

Counsel for the insurance company has submitted that as the matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in *National Insurance Company Limited vs. Pushpa and others* in a petition for Special Leave to Appeal (Civil)-8058 of 2014, claimants are not entitled to the said benefit. It is further submitted that reasonable compensation under conventional heads may be allowed.

I have heard counsel for the parties, perused the paper book particularly the award passed by the Tribunal.

The Tribunal has not allowed benefit of future prospects despite taking note of judgment of Hon'ble the Supreme Court of India

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while allowing an amount of Rs. 25,000/- towards funeral expenses. The mere fact that the matter with regard to future prospects is pending consideration before a Larger Bench is not sufficient to deny the said benefit till the judgment in ***Rajesh and others case (supra)*** is varied or set aside. After extending benefit of future prospects to the extent of 30% as the deceased was 46 years old, loss of dependency comes to Rs. 6,92,640 +2,07,792 (30%)= Rs.9,00,432/-.

Under conventional heads, an amount of Rs. 1,00,000/- for loss of consortium to the widow and Rs. 25,000/- each for funeral expenses and loss of estate is awarded. The deceased left behind nine children in different age groups. Two children of the deceased were held to be not dependent upon his earnings. However, all the children shall be entitled to compensation for loss of love, affection, care and guidance of their father. Taking into consideration a large family inviting divided attention of the father, an amount of Rs. 4.5 Lakhs in equal share is awarded for loss of love and affection to the children. The total compensation comes to Rs. 15,00,432/- and the enhanced compensation is Rs. 7,72,792/-. The

enhanced compensation shall carry interest at the rate of 7.5% per annum from filing of the petition till realization and the same shall be disbursed to the claimants in terms of the award passed by the Tribunal.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

9.12.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No