

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

FAO No.7682 of 2014 (O&M)

Date of decision : 26.08.2016

Amarjit Kaur and others

.....Appellants

Versus

Shri Jagir Singh and another

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Ms. Ekta Thakur, Advocate for appellants.

Mr. Nakul Sharma, Advocate for respondent No.1.

Mr. Vinod Chaudhri, Advocate for respondent No.2.

DARSHAN SINGH, J.

CM-20535-CII-2014

There is delay of 49 days in filing the present appeal. The appellant has filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed and the delay of 49 days in filing the present appeal is hereby condoned.

FAO No.7682 of 2014 (O&M)

The present appeal has been preferred against the award dated 03.02.2014 passed by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the "Tribunal"), vide which the appellants-

claimants have been awarded compensation to the tune of Rs.4,78,916/- on account of death of Faquir Singh in the motor vehicular accident, which took place on 05.01.2013.

2. The present appeal has been filed by the appellants-claimants for enhancement of amount of compensation.

3. I have heard learned counsel for the parties and gone through the paper-book carefully.

4. Learned counsel for the appellants-claimants contended that the income of the deceased has been wrongly determined by the learned Tribunal. After his retirement, he was doing job as Security Guard at the ATM of Punjab and Sind Bank and earning Rs.7000/- per month. The said income has not been taken into consideration by the learned Tribunal. She further contended that no future prospects have been added towards the income of the deceased and the multiplier has been wrongly applied.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the income of the deceased has been rightly determined by the learned Tribunal as there was no evidence to establish that he was working as a Security Guard. He further contended that the deceased was 61 years of age at the time of the accident, so no future prospects were admissible. Thus, he contended that compensation has been awarded by the learned Tribunal.

6. I have duly considered the aforesaid contentions.

7. The appellants-claimants have alleged that the deceased was a retired person and was drawing pension of Rs.15,000/-. Besides he was

also earning Rs.7000/- per month from the job of Security Guard with ATM of Punjab and Sind Bank, Sector 43, Chandigarh. But in the pension account of the deceased Ex.P7 produced by the claimants, the last pension drawn was Rs.6554/- as on 29.11.2012. The claimants have not produced any documentary evidence to show that he was employed as a Security Guard with the ATM of Punjab and Sind Bank. So, the claimants have failed to establish that the deceased was earning Rs.7000/- per month from his job as a Security Guard. Thus, the learned Tribunal has rightly taken the income of the deceased to be Rs.6554/- per month *i.e.* Rs.78,648/- per annum.

8. Ex.P3 is the pension payment order of deceased Faquir Singh, which shows that his date of birth was 10.01.1952. This accident has taken place on 05.01.2013. In this way on the date of his accident/death he was only five days less than 61 years of age. Thus, as he was more than 60 years of age on the date of death, so no future prospects are required to be added to his income.

9. However, I found substance in the plea raised by learned counsel for the appellants-claimants that the learned Tribunal has wrongly applied the multiplier of 06. In view of the age of the deceased, the multiplier of 07 should have been applicable. The learned Tribunal has determined the loss of dependency to be Rs.3,53,916/- by applying the multiplier of 06. But by applying the correct multiplier of 07, the loss of dependency comes to Rs.4,12,902/-. So there is net increase of Rs.58,986/- in the amount of compensation. The total amount of compensation payable

to the claimants comes to ₹ 5,37,902/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to Rs.5,37,902/- from Rs.4,78,916/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced amount from the date of filing the petition till realisation at the rate as determined by the learned Tribunal. The liability to pay the enhanced amount of compensation and apportionment amongst the claimants shall remain as determined by the learned Tribunal in the main award.

26.08.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No