

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

FAO No.7700 of 2014(O&M)

Date of decision: 29.11.2016

Manjit Kaur and others

....Appellants

VERSUS

Upkar Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. G.S. Nagpal, Advocate for the appellants.

REKHA MITTAL, J. (Oral)

CM No.20552-CII of 2014

Mr. Sanjeev Goyal, Advocate, has caused appearance on behalf of respondent No.3.

Reply to the application filed by counsel for insurance company in the Court, is taken on record.

In view of averments made in the application supported by an affidavit of Manjit Kaur, one of the claimants/appellants, coupled with the factum that the provisions of the Motor Vehicles Act, 1988 providing for compensation is a beneficent legislation to subserve cause of victims of the motor vehicle accidents, the application is allowed and delay of 420 days in filing of appeal stands condoned but subject to condition that the appellants shall forego interest for the period of delay, in case the appeal is allowed.

Disposed of accordingly.

FAO No.7700 of 2014

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Ludhiana

(in short 'the Tribunal') in regard to death of Balbir Singh in a motor vehicular accident that occurred on 03.07.2007.

The Tribunal assessed income of the deceased at Rs.16,106/- per month, deducted 1/3rd for personal and living expenses, adopted a multiplier of 14 to compute loss of dependency at Rs.18,03,816/-. In addition, an amount of Rs.5000/- each has been awarded for funeral expenses and loss of consortium, making total compensation to the tune of Rs.18,13,816/-.

Counsel for the appellants has submitted that the Tribunal has not allowed benefit of increase in income for future prospects to the extent of 30%. Compensation awarded under conventional heads needs enhancement.

Counsel for the Insurance Company, on the contrary, has submitted that out of income of Rs.16,106/-, an amount of Rs.12,606/- represents pension paid to the deceased and only income to the extent of Rs.3,500/- per month would entail increase towards future prospects, if so allowed. It is further submitted that the appellants are not entitled to benefit of future prospects as the matter with regard to future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in **National Insurance Company Ltd. vs. Pushpa, SLP (C) No.16735 of 2014, decided on 02.07.2014.**

I have heard counsel for the parties, perused the paper-book and the records.

The Tribunal has not allowed benefit of future prospects in the light of judgment of Hon'ble the Supreme Court Rajesh and others Vs. Rajbir Singh and others, 2013 (3) RCR (Civil) 170. The mere fact that the matter is pending 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. However, the claimants shall be entitled to benefit of future prospects only qua income of Rs.3,500/- per month that was received by the deceased from his job with Hero Heart DMC, Ludhiana. After allowing benefit of increase in income to the extent of 30%, loss of dependency comes to Rs.19,21,472/- [Rs.21,17,808/- (Rs.12606/- x 12 x 14) + Rs.7,64,400/- (Rs.3500/- x 12 x 14 + Rs.1,76,400/- 30% towards future prospects) - Rs.9,60,736/- (1/3rd deduction towards personal expenses)].

An amount of Rs.1,00,000/- for loss of consortium to the widow, Rs.1,50,000/- in equal share to children for loss of love and affection and Rs.25,000/- each for funeral expenses and loss of estate to the claimants is awarded.

In view of the above, total compensation comes to Rs.22,21,472/- and the enhanced compensation is Rs.4,07,656/- (Rs.22,21,472/- - Rs.18,13,816/-), payable with interest at the rate of 7.5% per annum from the date of petition till realization except for the period of delay of 420 days. The enhanced compensation shall be payable to the appellants in equal share, to be deposited in a Fixed Deposit Receipt for a period of three years.

All other terms and conditions of the award shall remain intact.

The appeal is partly allowed in the aforesaid terms.

NOVEMBER 29, 2016
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no