

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

FAO No. 6130 of 2015 (O&M)

Date of decision :16.08.2016

Kulvinder Kaur and others

..... Appellants

Versus

Darshan Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.G.C.Shahpuri, Advocate
for the appellants.

Mr. Rajiv Sidhu, Advocate
for respondents no.1 and 2.

Ms. Sheenu Sura, Advocate
for respondent no.3.

DARSHAN SINGH,J

The present appeal has been preferred by appellants-claimants against the award dated 10.03.2015 passed by the learned Motor Accident Claims Tribunal, Ambala, vide which they have been awarded compensation to the tune of Rs. 7,42,000/- as compensation on account of the death of Harbhajan Singh in the motor vehicular accident which took place on 13.11.2013.

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

3. I have heard Mr. G.C.Shahpuri, Advocate, learned counsel for the appellants, Mr. Rajiv Sidhu, Advocate, learned counsel for the respondents no.1 and 2, Ms. Sheenu Sura, Advocate, learned counsel for the respondent no.3 and have carefully gone through the record of the

case.

4. Initiating the arguments, learned counsel for the appellants contended that the deceased was 45 years of age. He was a mason by profession. But, the learned Tribunal has not added the future prospects to the income of the deceased. 30% of the income of the deceased should have been added towards the future prospects. He further contended that the learned Tribunal has awarded very less amount towards other conventional heads. No amount has been awarded towards loss of love and affection to the children and mother of the deceased. Thus, he contended that the compensation awarded by the learned Tribunal is inadequate.

5. On the other hand, learned counsel for the respondents contended that as the deceased was just a labourer, so the future prospects were not required to be added to the income of the deceased. The learned Tribunal has awarded adequate compensation under the other conventional heads and there is no scope of any further enhancement.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has determined the income of the deceased to be Rs.6000/- per month assuming the deceased to be a skilled worker. But, the learned Tribunal has not awarded any future prospects towards the income of the deceased. As per the case of the claimants, he was working as a mason. The learned Tribunal has also considered the deceased to be a skilled worker. So, with the passage of time, the income of the deceased was certainly to increase. It is a fact of common knowledge that the income of every individual increases with the passage

of time that is why even the government revises minimum wages of the workers periodically. So, the learned Tribunal should have added future prospects to the income of the deceased. The deceased was 45 years of age at the time of his death. So, 30% of his income shall be added towards the future prospects. The total income of the deceased comes to Rs. 7800/- per month i.e. Rs.93,600/- per annum. 1/4th of the income of the deceased shall be deducted towards his personal and living expenses. The reminder comes to Rs. 70200/-. Learned counsel for the appellants has not challenged the multiplier of 13 applied by the learned Tribunal. So, the loss of dependency comes to Rs.9,12,600/-.

8. Appellant-claimant no.1-Kulvinder Kaur is the widow of deceased-Harbhajan Singh. She has been awarded only sum of Rs. 20,000/- on account of loss of consortium, which is enhanced to Rs. 1 lac. The claimants-appellants no.4 to 6, the children of deceased-Harbhajan Singh are also entitled to Rs. 1 lac on account of loss of love, care and guidance. Claimant-appellant no.2-Ajmer Kaur, the mother of the deceased is also entitled to Rs. 1 lacs as compensation on account of loss of love and affection of her son. The claimants shall also be entitled to Rs. 25000/- towards funeral, transportation and last rites expenses. It is not disputed that the deceased remained under treatment for about 8 days after receiving the injuries in this accident. So, the claimants shall be entitled to sum of Rs. 20,000/- towards the medical expenses. Thus, the total amount of compensation payable to the claimants comes to Rs. 12,57,600/-.

9. Therefore, keeping in view my aforesaid discussion, the

present appeal is hereby partly allowed. The amount of compensation payable to the claimants is enhanced from Rs.7,42,000/- to Rs.12,57,600/-. The claimants shall also be entitled to interest at the rate determined by the learned Tribunal on the enhanced amount from the date of filing the present petition till realisation. The liability to pay the enhanced amount and proportionment thereof shall be as per the impugned award.

10. As the matter with respect to future prospects has been referred to the Larger Bench of the Hon'ble Apex Court in case **National Insurance Company Vs. Pushpa, (2015) 9 SCC 166**, in order to safeguard the interest of respondent-Insurance Company, the amount of compensation under the head of future prospects shall be disbursed to the claimants against adequate security in the form of sufficient indemnity bonds to the satisfaction of the learned Tribunal/executing Court wherein the claimants will undertake that if the Hon'ble Apex Court adjudicates that the casual labourers/person not holding the permanent jobs will not be entitled to the future prospects, then they will be bound to refund the amount of future prospects received by them on the basis of application so moved by the respondent-Insurance company and the learned Tribunal will be competent to make the steps without making any reference to this Court.

August 16, 2016

s.khan

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No