IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.8582 of 2014 (O&M)

Date of decision : 01.12.2016

Balvir Kaur and another

......Appellants

Versus

Balkaran Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Tushant Deep Garg, Advocate for appellants.

Mr. S. S. Sidhu, Advocate for respondent No.3-
Insurance Company.

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<u>DARSHAN SINGH, J.</u>

<u>CM-23413-CII-2014</u>

For the reasons mentioned in the application, same is allowed and the delay of 43 days in re-filing the appeal is condoned.

<u>Main Appeal</u>

The present appeal has been preferred against the award dated 17.02.2014, passed by the learned Motor Accidents Claims Tribunal, Barnala (hereinafter called the "Tribunal"), in a petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the "Act"), whereby the appellants-claimants have have been awarded compensation to the tune of ₹4,01,000/- on account of death of their son Amandeep Singh in the motor vehicular accident which took place on 16.09.2012.

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

3. I have heard learned counsel for the parties and have gone through the record carefully.

4. Initiating the arguments, learned counsel for the appellants-claimants contended that deceased Amandeep was serving as Front Line Entrepreneur in Operation and Maintenance Department of Trident Yarn Division of Trident Limited and its registered office is at Sanghera, Tehsil and Distt. Barnala. The deceased was also engaged in the business of selling the milk. He contended that the deceased was getting ₹7500/- per month from Trident Group as salary and he was earning ₹10,000/- per month from his business of selling the milk but the learned Tribunal has wrongly taken the income of the deceased to be ₹6000/- per month. He further contended that learned Tribunal has not added any future prospects to the income of the deceased. The appellants-claimants have also not been awarded any compensation on account of loss of love and affection of their son. The multiplier has also been applied wrongly. Less amount has been awarded towards funeral expenses. Thus, he contended that learned Tribunal has not awarded just amount of compensation to the appellants-claimants.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the learned Tribunal has awarded the just compensation. He was not having any permanent job, so no future

prospects shall be admissible towards the income of the deceased. He further contended that just and appropriate amount of compensation have been awarded by the learned Tribunal under all other heads and the impugned award does not call for any interference.

6. I have duly considered the aforesaid contentions.

7. As per the case of the appellants-claimants deceased Amandeep was working as Front Line Entrepreneur in Operation and Maintenance Department of Trident Yarn Division of Trident Limited as was getting ₹7500/- per month as salary. He was also earning ₹10,000/- per month by selling the milk. The claimants have also examined PW-3 Pardeep Singh, Clerk Trident Factory, Raikot Road, Sanghera, who produced the letter of offer for appointment Ex.P3 for the post of Front Line Entrepreneur and deposed that deceased Amandeep Singh joined his duty on 24.08.2012. However, no salary record of the deceased was produced in evidence to show that the deceased was getting ₹7500/- per month as salary. The claimants have not even produced any record to show that the deceased was engaged in the business of milk selling. So, the learned Tribunal has rightly taken his income to be ₹6000/- per month, which does not call for any interference. However, the learned Tribunal has not added any future prospects to the income of the deceased. The deceased was a young man of 22 years of age. He was hale and hearty. His income was bound to increase with the passage of time. So, the future prospects should have been added to the income of the deceased. In view of the age of the deceased, 50% of his income is required to be added towards future prospects. The total income

of the deceased comes to ₹9000/- per month *i.e.* ₹1,08,000/- per annum.

8. The present claim petition has been filed by the parents of the deceased. He is stated to be bachelor. So, 50% of the income of the deceased shall be deducted towards his personal and living expenses as per the law laid down in ***Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77***. The remainder comes to ₹54,000/-. The learned Tribunal has wrongly applied the multiplier taking into consideration the age of the parents (appellants-claimants). As per the law laid down by the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, the multiplier would be applicable as per the age of the deceased. The deceased was 22 years of age, so the multiplier of 18 shall be applicable. The compensation on account of loss of dependency comes to ₹9,72,000/-.

9. The learned Tribunal has not awarded any amount towards loss of love and affection and less amount has been awarded towards funeral expenses. The appellants-claimants shall be entitled to ₹1,00,000/- towards loss of love and affection of their son and ₹25,000/- towards funeral and last rites expenses. Total amount of compensation payable to the appellants-claimants comes to ₹10,97,000/-

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellants-claimants is enhanced to ₹10,97,000/- from ₹4,01,000/- as awarded by the Tribunal. The appellants-claimants shall 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 same as determined by the learned Tribunal in the main award.

11. 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 No.3-Insurance Company, the amount of compensation under the head 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/persons 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 moving the requisite application by the respondent-Insurance Company and the learned Tribunal will be competent to take the steps without making any reference to this Court.

01.12.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No