

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

FAO No.8767 of 2014 (O&M)

Date of decision : 16.12.2016

Rohtash

.....Appellant

Versus

Hari Om and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sant Lal Barwala, Advocate for appellant.
 Mr. D. S. Randhawa, Advocate for
 Mr. Jasbir Singh Mor, Advocate for respondent No.2.
 Mr. R. N. Singal, Advocate for respondent No.3-
 Insurance Company.

DARSHAN SINGH, J.

CM-23878-CII-2014

For the reasons mentioned in the application, same is allowed
and the delay of 51 days in re-filing the appeal is condoned.

Main Appeal

The present appeal has been preferred against the award dated 23.04.2014, passed by the learned Motor Accidents Claims Tribunal, Hisar (hereinafter called the “Tribunal”), in a petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), whereby the appellant-claimant has been awarded compensation to the tune of ₹8,23,000/- on account of death of his son Sandeep in the motor vehicular accident which took place on 26.06.2012.

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

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

4. Initiating the arguments, learned counsel for the appellant-claimant contended that learned Tribunal, while taking the deceased to be a labourer, has determined his income according to the minimum wages fixed by the government i.e. ₹6600/- per month. However, learned Tribunal has not added any future prospects to the income of the deceased. Less amount has been awarded towards funeral expenses. Thus, he contended that learned Tribunal has not awarded just amount of compensation to the appellant-claimant.

5. On the other hand, learned counsel for the respondents contended that the learned Tribunal has awarded the just compensation. The deceased was not having any permanent job, so no future prospects shall be admissible towards the income of the deceased. They further contended that just and appropriate amount of compensation has 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. On appreciation of the oral as well as documentary evidence, the learned Tribunal has rightly determined the income of the deceased to be ₹6600/- per month treating him to be a labourer, 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 24 years of age. He was hale and hearty. Even if he was working as a labourer, 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 ₹9,900/- per month *i.e.* ₹1,18,800/- per annum.

8. The present claim petition has been filed by the father of the deceased. The deceased 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 ₹59,400/-. The learned Tribunal has rightly applied the multiplier of 18 taking into consideration the age of the deceased. Thus, the compensation on account of loss of dependency comes to ₹10,69,200/-.

9. The learned Tribunal has already awarded a sum of ₹1,00,000/- towards pain and suffering to the appellant-claimant on account of death of his young son. However, learned Tribunal has awarded only ₹11,000/- towards transportation and funeral expenses, which is enhanced to ₹25,000/-. Thus, the total amount of compensation payable to the appellant-claimant comes to ₹11,94,200/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellant-claimant is enhanced to ₹11,94,200/- from ₹8,23,000/- as

awarded by the Tribunal. The appellant-claimant shall also be entitled to interest on the enhanced amount of compensation at the same rate as determined by the learned Tribunal from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation 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-Insurance Company, the amount of compensation under the head future prospects shall be disbursed to the claimant against adequate security in the form of sufficient indemnity bonds to the satisfaction of the learned Tribunal/executing Court, wherein the claimant 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 he will be bound to refund the amount of future prospects received by him 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.

16.12.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No