

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

-.-

FAO 8778 of 2014 (O&M)
Date of decision: 16.09.2016

Parminderjit Kaur and others

.....Appellants

Versus

Dilawar Singh and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Neeraj Khanna, Advocate
for the appellants

Ms Kaavya Jariyal, Advocate for
Mr. B S Jaswal, Advocate
for respondents No. 1 to 3

Mr. Pradeep Kumar, Advocate
for respondent No. 4

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Rekha Mittal, J. (Oral)

The claimants are in appeal seeking enhancement of compensation in regard to death of Harpal Singh in a motor vehicular accident that took place on 30.04.2012 due to rash and negligent driving of Car bearing No. PB 63-B-0986.

The learned Tribunal assessed income of the deceased at Rs.6,000/- per month, deducted 1/4th towards personal expenses, adopted multiplier of 18 and computed loss of dependency to the tune of Rs.9,72,000.00.

Counsel for the appellants would contend that the Tribunal has not allowed benefit of increase in income for future prospects and as the

deceased was 24 years old, the same would be 50% of his assessed income. It is further argued that compensation awarded under conventional heads needs re-look and enhancement. Another submission made by counsel is that the learned Tribunal has allowed interest @ 6% per annum that also needs enhancement.

Counsel for the insurance company has supported the award with the submissions that the claimants are not entitled to benefit of future prospects in the circumstances that the matter is pending consideration before a Larger Bench of the Apex Court in view of reference made in *National Insurance Company Limited v. Pushpa* (SLP (c) No. 16735 of 2014, decided on 02.07.2014).

I have heard counsel for the parties and perused the paper book particularly the award impugned.

The claim petition was preferred by Parminderjit Kaur (widow), Kanwaljit Singh (minor son), Jasleen Kaur (minor daughter) and Raghbir Singh (father of deceased Harpal Singh). The learned Tribunal has allowed deduction to the extent of 1/4th by taking into consideration number of dependents to be four. On a pointed query raised by the Court, counsel for the claimants has fairly informed that there is no positive evidence to record a finding that father of the deceased was also dependent upon his son. Under these circumstances, deduction would be allowed by taking into consideration number of dependents to be three in place of four. The claimants are entitled to benefit of increase in income for future prospects to the extent of 50% and they cannot be denied the said benefit merely because a reference is pending before a Larger Bench till the judgment in *Rajesh*

and others v. Rajbir Singh and others (2013) 9 SCC 54 is varied or set aside. In this manner, loss of dependency comes to Rs.12,96,000.00 (Rs.6,000.00+Rs.3,000.00 (50% future prospects)x12x18-Rs.6,48,000.00 being 1/3rd deduction).

Under conventional heads, Parminderjit Kaur (widow) is awarded an amount of Rs.1,00,000.00 for loss of consortium. The minor children are awarded an amount of Rs.1,50,000.00 in equal share for loss of love and affection. The claimants are also awarded an amount of Rs.25,000.00 each for loss of estate and expenses on funeral. The total compensation payable to the claimants comes to Rs.15,96,000.00 (Rs.12,96,000.00 + Rs.1,00,000.00 + Rs.1,50,000.00 + Rs.25,000.00 + Rs.25,000.00). The enhanced compensation comes to Rs.6,04,000.00 (Rs.15,96,000.00-Rs.9,92,000.00). The compensation awarded by the Tribunal as well as additional compensation allowed by this Court shall be payable with interest @ 7.5% per annum from the date of petition till realization, payable to the widow and children in equal share. The compensation payable to the widow shall be deposited in a FDR for a period of three years and that to the minors in FDR (s) till they attain the age of majority. The interest accrued on FDR (s) shall be payable to the mother for meeting expenses of their education and living.

The appeal is partly allowed in the aforesaid terms.

(Rekha Mittal)
Judge

16.09.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No