IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-8941-2014 (O&M)
Date of decision: 16.2.2016

Shri Ram General Insurance Company Limited
...Appellant

Versus

Smt.Sajida and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Arun Sharma, Advocate for
Mr.Tajender K.Joshi, Advocate for the appellant

Respondents No.1 to 11 already ex-party

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SNEH PRASHAR, J.

The present appeal has been filed by the appellant-Insurance Company challenging the impugned award dated 9.7.2014 passed by learned Motor Accidents Claims Tribunal, Mewat vide which a sum of Rs.13,13,000/- has been allowed to respondents No. 1 to 9-claimants on account of death of one Jamshed in a motor vehicular accident.

The submissions made by learned counsel for the appellant have been heard and record perused.

The only argument raised by learned counsel for the appellant is that the claimants-respondents No.1 to 9 are not entitled to 50% increase in income of the deceased on account of loss of future prospects, as the deceased was not in a permanent employment.

There is no dispute with regard to death of Jamshed in a road side accident. There being no substantive evidence on record with regard to occupation and income of the deceased, learned Tribunal, considering him as casual labourer, had taken his monthly income as Rs.5200/- per month.

In **Rajesh and others vs. Rajbir Singh and others 2013 (9) SCC 54**, in para 11, the Hon'ble Supreme Court has observed as under:

> "11. Since, the Court in Santosh Devi's case (supra) actually intended to follow the principle in the case of salaried persons as laid in Sarla Verma's case (supra) and to make it applicable also to the self employed and person on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self employed or persons of fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age

group of 40 to 50 years."

The deceased was a young man aged 28 years. The claimants are the widow, six minor children and parents. Therefore, the learned Tribunal was right in adding 50% of the monthly income of the deceased computing the future prospects while assessing his monthly earnings.

In the above premise, this Court finds no merits in the appeal. Accordingly, the instant appeal is dismissed.

16.2.2016 **(SNEH PRASHAR)**
gsv **JUDGE**