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

**FAO No.8977 of 2014
Date of decision : 11.11.2016**

Anju Bala and another

......Appellants

Versus

Ashu Kumar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. R.K. Moudgil, Advocate for appellants.

Mr. Punit Jain, Advocate for
Mr. M.B. Jain, Advocate for
respondent No.3-Insurance Company.

****

DARSHAN SINGH, J.

The present appeal has been preferred by the appellants-claimants against the award dated 01.07.2014, passed by learned Motor Accidents Claims Tribunal, Pathankot (hereinafter called the "Tribunal"), vide which they have been awarded compensation to the tune of ₹5,60,000/- on account of the death of Surinder Kumar in the motor vehicular accident which took place on 17.05.2013.

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

3. I have heard learned counsel for the parties and gone through the record of the case meticulously.

4. Initiating the arguments, learned counsel for the appellants-claimants contended that the learned Tribunal has not awarded any future

prospects to the income of the deceased. The interest awarded by the learned Tribunal is also on the lower side. Thus, he contended that just amount of compensation has not been awarded.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased was not having any permanent job, so future prospects were not admissible towards his income. The learned Tribunal has rightly not added any future prospects to the income of the deceased. He contended that the compensation awarded by the learned Tribunal and the interest thereon is just and appropriate keeping in view the antecedents, age and income of the deceased.

6. I have duly considered the aforesaid contentions.

7. The learned Tribunal has determined the income of the deceased to be ₹5000/- per month considering him to be a driver of an auto-rickshaw. The learned Tribunal has not awarded any future prospects towards the income of the deceased. As per the findings recorded by the learned Tribunal he was the driver of auto-rickshaw. Thus, he was a skilled person and his income was bound to increase with the passage of time. So, the learned Tribunal was required to add the future prospects to the income of the deceased. At the time of his death deceased Surinder Kumar was 45 years of age, so 30% of the income of the deceased is required to be added towards the future prospects and the total income of the deceased comes to ₹6500/- per month *i.e.* ₹78,000/- per annum. In view of the number of the dependent family members of the deceased, 1/3rd of the income of the deceased shall be deducted towards his personal and living expenses. The

remainder comes to ₹52,000/-.

8. In view of the age of the deceased, the learned Tribunal has rightly applied the multiplier of 14. So, the total loss of dependency comes to ₹7,28,000/-. So, the compensation computed by the learned Tribunal on account of loss of dependency is increased from ₹5,60,000/- to ₹7,28,000/-.

9. Though the learned Tribunal in Para No.12 of the award has awarded ₹1,00,000/- for loss of consortium to appellant-claimant No.1. Appellants-claimants No.1 &2 have also been awarded a sum of ₹1,00,000/- on account of loss of love and affection and ₹25,000/- have been further awarded for funeral and last rites, but these amounts have not been added to the total amount of compensation, as in the relief clause the amount of compensation has only been shown to be ₹5,60,000/-, which is an arithmetical and clerical mistake in the impugned award. Now as per the computation of the compensation made by this Court, the appellants-claimants shall be entitled to the compensation as under:-

Sr. No.	**Heads of compensation**	**Amount of compensation awarded by the Tribunal** ***(in rupees)***	**Amount of compensation enhanced by this Court** ***(in rupees)***
1.	Loss of dependency	5,60,000	7,28,000
2.	Loss of consortium to appellant No.1	1,00,000	1,00,000 *(not enhanced)*
3.	Loss of love and affection to minor child	1,00,000	1,00,000 *(not enhanced)*
4.	Funeral expenses	25,000	25,000 *(not enhanced)*
	Total	**7,58,000**	**9,53,000**

10. Thus, keeping in view my aforesaid discussion, the present

appeal is hereby partly allowed. The amount of compensation payable to appellants-claimants is enhanced to ₹9,53,000/- from ₹7,58,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest on the enhanced amount of compensation @ 7.5% per annum from the date of filing the claim petition till realisation. The liability to pay the enhanced amount and the apportionment amongst the claimants shall remain 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.

11.11.2016 **(DARSHAN SINGH)**
sunil yadav **JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No