

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

**FAO No.9095 of 2014**

**Date of decision : 29.08.2016**

**Sarishtha Devi and another**

.....Appellants

*Versus*

**Tarsem lal and others**

...Respondents

**CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Rakesh Kumar, Advocate for appellants.

Mr. Suvir Dewan, Advocate for respondent No.3-  
Insurance Company.

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**DARSHAN SINGH, J.**

The present appeal has been preferred against the award dated 03.05.2012, passed by the learned Motor Accidents Claims Tribunal, Kapurthala (hereinafter called the “Tribunal”), whereby the appellants-claimants have have been awarded compensation to the tune of ₹2,24,000/- on account of death of their son Raman Kumar in the motor vehicular accident which took place on 13.10.2010.

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 paper-book carefully.

4. Initiating the arguments, learned counsel for the appellants contended that deceased Raman Kumar was 24 years of age. He was unmarried. The learned Tribunal has not awarded any future prospects to the

income of the deceased. 50% of the income of the deceased should have been added towards future prospects. The multiplier has also been wrongly applied as per the age of the claimants. No amount towards loss of love and affection has been awarded and less amount has been awarded towards funeral expenses.

5. On the other hand, learned counsel for the respondent-Insurance Company contended that the deceased was a casual labourer. 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 claimants, the deceased was working as a helper in Hard Mix Plant owned by respondent No.2 Kulwinder Singh Sabi but the claimants could not adduce any evidence to establish this version. Rather, respondent No.2 has pleaded that the brother of the deceased was working as a helper and not the deceased. The claimants have not summoned any record with respect to the employment of the deceased. So, in these circumstances, I do not find any infirmity in treating the deceased as a labourer and determining his income to be ₹5000/- per month by the learned Tribunal.

8. However, the learned Tribunal has not awarded any future prospects towards the income of the deceased. Even though the deceased was just a casual worker but still his income was certainly bound to increase

with the passage of time as it is fact of common knowledge that nobodies income remain stagnant for whole of his life and it increases with the passage of time that is why even the government revises the minimum wages of the unskilled/skilled workers periodically. So, the future prospects should have been added to the income of the deceased.

9. The deceased was admittedly 24 years of age at the time of the accident. So, 50% of his income shall be added towards future prospects, which comes to ₹7500/- per month. The deceased was unmarried and the claimants are his parents. As per the law laid down by the Hon'ble Apex Court in case ***Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77***, 50% of the income of the deceased shall be deducted towards his personal and living expenses. The remainder comes to ₹3750/- per month *i.e.* ₹45,000/- per annum. The learned Tribunal has wrongly applied the multiplier of 5 keeping in view the age of the 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) ACJ 1985***, the multiplier should have been applied as per the age of the deceased. In view of the age of the deceased, the multiplier of 18 shall be applicable. The loss of dependency comes to ₹8,10,000/-.

10. In addition to the aforesaid amount, the claimants shall also be entitled to ₹1,00,000/- towards loss of love and affection of their son and ₹25,000/- towards funeral and last rites expenses. The total amount of compensation payable to the appellants comes to ₹9,35,000/-.

11. 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 ₹9,35,000/- from ₹2,24,000/- 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, except the period of delay in re-filing the appeal. The liability to pay the enhanced amount of compensation and apportionment amongst the claimants shall remain as determined by the learned Tribunal in the main award.

12. 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.

**29.08.2016**

*sunil yadav*

**( DARSHAN SINGH )  
JUDGE**

**Whether speaking/reasoned : Yes / No**

**Whether reportable : Yes / No**