

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

**FAO No.93 of 2014 (O&M)
Date of decision : 05.04.2016**

Smt. Balwinder Kaur and others

.....Appellants

Versus

S. Saroop Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

- 1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes*
- 2. To be referred to the Reporters or not ? Yes*
- 3. Whether the judgment should be reported in the Digest? Yes*

Present: Mr. Rishu Mahajan, Advocate for the appellants.

Respondent No.1 proceeded against *ex parte*.

Mr. Sanjeev Goyal, Advocate for respondent No.3.

DARSHAN SINGH, J.

The present appeal has been preferred by appellants—claimants against the award dated 04.04.2012, passed by the learned Motor Accidents Claims Tribunal, Amritsar (hereinafter called the 'Tribunal'), vide which the appellants-claimants have been awarded compensation to the tune of Rs.2,59,200/- as compensation on account of death of Manjit Singh in the motor vehicular accident, which took place on 26.06.2011.

2. The present appeal has been preferred by the appellants-

claimants for enhancement of the compensation.

3. There was no dispute of liability, so the notice to respondent No.2 was dispensed with. Respondents No.4 & 5 are the married daughters of deceased Manjit Singh. No relief has been claimed by the appellants against them in the present appeal, so notice qua them was also dispensed with.

4. Learned counsel for the appellants contended that the learned Tribunal has considered the deceased as a manual labourer but he has taken the income of the deceased only Rs.3600/- per month, whereas in those days the minimum wages were Rs.140/- per day. He further contended that no future prospects have been awarded towards the income of the deceased. No loss of consortium has been awarded to claimant No.1 Balwinder Kaur, the widow of deceased Manjit Singh. Nothing has been awarded on account of loss of love and affection to the children. Thus, he contended that the Tribunal has not awarded the just compensation.

5. Learned counsel for the respondent-Insurance Company contended that the income of the deceased has been rightly taken by the learned Tribunal as the deceased was only a manual labourer. He further contended that the claimants were not entitled for addition of any future prospects to the income of the deceased. Thus, he contended that the compensation awarded by the learned Tribunal is just and appropriate.

6. I have duly considered the aforesaid contentions.

7. I found considerable substance in the contentions raised by learned counsel for the appellants.

8. The learned Tribunal has taken the income of the deceased to be Rs.3600/- per month. The age of deceased Manjit has been determined by the learned Tribunal to be 56 years. 1/3rd of the income of the deceased has been deducted towards his personal and living expenses. The compensation of Rs.2,59,200/- has been awarded. The learned Tribunal has not awarded any compensation to the claimants towards loss of consortium, loss of love and affection, funeral and transportation expenses.

9. The income of the deceased taken by the learned Tribunal at the rate of Rs.3600/- per month is absolutely on the lower side. The deceased was an able bodied person of 56 years of age. Even by doing the work as a manual labourer, he could have easily earned Rs.4000/- per month. So, the income of the deceased shall be taken to be Rs.4000/- per month *i.e.* Rs.48,000/- per annum. It is a fact of common knowledge that even the wages of manual labourers are increasing day by day. So, the income of the deceased was also certainly bound to increase with the passage of time. So, future prospects should have been added to the income of the deceased. In view of the age of the deceased, 15% of the income of the deceased shall be added towards the future prospects. The total income of the deceased, after adding the future prospects, comes to Rs.55,200/-. 1/3rd of the aforesaid amount is to be deducted towards the

personal and living expenses of the deceased. The remainder comes to Rs.36,800/-. In view of the age of the deceased, the multiplier of 09 shall be applicable. Thus, the loss of dependency comes to Rs.3,31,200/-.

10. The learned Tribunal has not awarded any compensation to appellant-claimant No.1, the widow of the deceased, on account of loss of consortium. She will be entitled to Rs.1,00,000/- on account of loss of consortium. The learned Tribunal has also not awarded any compensation to appellants-claimants No.2 & 3, children of the deceased, on account of loss of love, care and guidance. They will be entitled to Rs.1,00,000/- under this head. The learned Tribunal has also not awarded any compensation towards funeral and transportation expenses. The appellants-claimants will be entitled to a sum of Rs.25,000/- under this head. In this way, the total amount of compensation comes to Rs.5,56,200/- (3,31,200 + 1,00,000 + 1,00,000 + 25,000).

11. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced to Rs.5,56,200/- from Rs.2,59,200/- as awarded by the learned 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 determined by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

05.04.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**