

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

FAO No.8267 of 2015

Date of Decision: 16.08.2016

Smt. Geeta Devi & others

.....Appellants

Versus

Satpal & another

....Respondents

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. K.S.Dhanora, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.2-Insurance Company.

DARSHAN SINGH, J (ORAL)

The present appeal has been preferred by the appellants-claimants against the award dated 21.04.2015 passed by the learned Motor Accidents Claims Tribunal, Kaithal (hereinafter referred to as "the Tribunal"), vide which the appellants-claimants have been awarded compensation to the tune of Rs.11,93,000/- on account of death of Ravi Parkash in the motor vehicular accident which took place on 18.11.2014.

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

3. Learned counsel for the appellants contended that the learned Tribunal has not added any future prospects to the income of the deceased. He was 30 years of age at the time of death, so, 50% of his income should have been added towards future prospects.

4. On the other hand, Mr.Lalit Garg, Advocate, learned counsel for respondent No.2 contended that the deceased was not having any permanent job having regular increments, so, the future prospects were not required to be added to the income of the deceased. Thus, he contended that the learned Tribunal has awarded just compensation.

5. I have duly considered the aforesaid contentions.

6. I found considerable substance in the contentions raised by learned counsel for the appellants. As per the case of the claimants, the deceased was running a tea stall in front of Secretariat, Kaithal and was earning Rs.20,000/- per month but in the absence of any documentary evidence with respect to the income of the deceased, the learned Tribunal has taken the income to be Rs.6,000/- per month being minimum wages fixed by the Haryana Government. The learned Tribunal has not added any future prospects to the income of the deceased. The deceased was a young man of 30 years. He was hale and hearty. So, his income was bound to appreciate with the passage of time. It is a fact of common knowledge that the income of nobody remains stagnant throughout his life. Even, the income of a casual labourer increases with the passage of time that is why the Government periodically revises the minimum wages of the workers. So, the learned Tribunal was required to add future prospects to the income of the deceased. In view of the age of the deceased 50% of his income should have been added towards future prospects. The total income of the deceased comes to Rs.9,000/- [Rs.6,000/- (income) + Rs.3,000/-

(50% future prospects)] i.e. Rs.1,08,000/- per annum.

7. The learned Tribunal has rightly deducted 25% of the income of the deceased towards his living and personal expenses as he was having 4 dependants. The remainder comes to Rs.81,000/-.

8. The learned Tribunal has also rightly applied multiplier of 17. Thus, loss of dependency comes to Rs.13,77,000/-.

9. The learned Tribunal has rightly awarded Rs.25,000/- towards funeral and transportation expenses, Rs.1,00,000/- as loss of consortium to appellant-claimant No.1, the widow of deceased Ravi Parkash, Rs.50,000/- each for loss of love and affection to appellants-claimants No.2 to 4. So, this amount of Rs.2,75,000/- shall be added to the amount of loss of dependency determined by this Court and the total amount of compensation comes to Rs.16,52,000/- (Rs.13,77,000/- + Rs.2,75,000/-).

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced from Rs.11,93,000/- to Rs.16,52,000/- (Rs. Sixteen Lacs Fifty Two Thousand only).

11. The claimants shall also be entitled to interest on the enhanced amount of compensation at the rate determined by the learned Tribunal in the impugned award from the date of filing of the claim petition till realisation. The liability to pay the enhanced amount and apportionment of the amount of the compensation shall be as per the amount awarded by the learned Tribunal.

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.2-Insurance Company, the amount of compensation under the head of 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 the basis of the application so moved by the respondent-Insurance Company and the learned Tribunal will be competent to take the steps without making any reference to this Court.

16.08.2016

Vinay

[DARSHAN SINGH]
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No