

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

**FAO No.9912 of 2014 (O&M)
Date of decision : 04.02.2016**

Simar Kaur and others

.....Appellants

Versus

Sukhwant 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. O.P. Hoshiarpuri, Advocate for appellants.
Mr. Suvir Dewan, Advocate for respondent No.3.
Mr. Rohit Goswami, Advocate for
Mr. D.P. Gupta, Advocate for respondent No.4.

DARSHAN SINGH, J.

CM-27358-CII-2014

There is delay of 165 days in filing the present appeal. The appellant has filed an application under Section 5 of the Limitation Act for condonation of delay.

Heard on the application.

In view of the reasons mentioned in the application, same is allowed.

FAO-9912-2014

2. The present appeal has been preferred against the award

dated 07.02.2014, passed by the learned Motor Accidents Claims Tribunal, Jalandhar (hereinafter called the 'Tribunal'), vide which the appellants-claimants were awarded the compensation of Rs.5,90,000/- along with interest @ 7.5% per annum from the date of filing the claim petition till the recovery of the awarded amount.

3. The appellants-claimants have filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter called the 'Act') for grant of compensation on account of death of Ram Kishan in the motor vehicular accident, which took place on 15.12.2011. It was pleaded that at the time of the accident he was doing labour job in Italy and he had come to India in October, 2011. His monthly income was Rs.60,000/-.

4. The claim petition was contested by respondents No.1 to 4 by filing separate written statements.

5. The learned Tribunal has awarded a sum of Rs.5,90,000/- as compensation to the claimants on account of death of Ram Kishan in this motor vehicular accident.

6. Dissatisfied with the quantum of compensation, the claimants have preferred the present appeal.

7. I have heard Mr. O.P. Hoshiarpuri, Advocate, learned counsel for the appellants, Mr. Suvir Dewan, Advocate, learned counsel for respondent No.3, Mr. Rohit Goswami, Advocate for Mr. D.P. Gupta, Advocate, learned counsel for respondent No.4.

8. Learned counsel for the appellants contended that the deceased was 54 years of age at the time of the accident. The multiplier

should have been applied of 11 but the learned Tribunal has applied the multiplier of 8, which is wrong. He further contended that no future prospects have been taken into consideration towards the income of the deceased in order to compute the compensation. Thus, he contended that the compensation assessed by the learned Tribunal is on the lower side.

9. On the other hand, learned counsel for the respondent-Insurance Company contended that the compensation assessed by the learned Tribunal is just and appropriate.

10. I have duly considered the aforesaid contentions.

11. The learned Tribunal has determined the income of the deceased Rs.6000/- per month but no future prospects have been awarded towards income of the deceased. In view of the law laid down by Hon'ble Apex Court ***Rajesh and others Vs. Rajbir Singh and others (2013)3 RCR (Civil) 170*** 15% addition to the income of the deceased is required to be made where the deceased is between the age group of 50 to 60 years. Further it has been laid down in case ***Rajesh and others vs. Rajbir Singh and others*** (supra) and ***Munna Lal Jain & Anr. Vs. Vipin Kumar Sharma & Ors. 2015(3) PLR 304*** that such future prospects can also be granted in case of the victims who were self-employed. So, 15% increase is to be granted towards the income of the deceased. In this manner, the total income of the deceased comes to Rs.6900/- ($6000 \times 15/100 = 900+6000$). The annual income of the deceased comes to Rs.82,800/-. After deducting 1/3rd towards his personal and living expenses the annual dependency comes to Rs.55,200/-.

12. I also found substance in the plea raised by learned

counsel for the appellant that wrong multiplier was applied. Deceased was 54 years of age at the time of the accident. As per the law laid down in case *Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77* the multiplier of 11 should have been applied. So, the multiplicand comes to Rs.6,07,200/- (55200 X 11).

13. The learned Tribunal has rightly granted Rs.1,00,000/- towards loss of consortium and Rs.25,000/- towards funeral expenses and Rs.80,200/- towards the treatment charges spent on the treatment of the deceased before his death as he remained admitted in various hospitals. So, the total amount of compensation as determined by this Court comes to Rs.8,12,400/- (607200+100000+25000+80200). So, the amount of compensation is enhanced from Rs.5,90,000/- as awarded by the learned Tribunal to Rs.8,12,400/- with net increase of Rs.2,12,400/-.

14. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation is enhanced by Rs.2,12,400/- raising the total amount of compensation/ award to Rs.8,12,400/- instead of Rs.5,90,000/- as awarded by the learned Tribunal. The claimant shall be entitled to interest on the enhanced amount from the date of filing the petition till realization @ 7.5% per annum, the rate of interest as awarded by the learned Tribunal. The liability to pay the enhanced amount shall remain as determined by the learned Tribunal in the main award.

04.02.2016
sunil yadav

(DARSHAN SINGH)
JUDGE