

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

(1)

**FAO No.8677 of 2015 (O&M)
Date of decision : 30.05.2016**

Commander, 32, Border Road Task Force C/o 56 APO and another

.....Appellants

Versus

Mafi Devi and another

...Respondents

(2)

FAO No.8678 of 2015 (O&M)

Commander, 32, Border Road Task Force C/o 56 APO and another

.....Appellants

Versus

Minakshi and another

...Respondents

(3)

FAO No.8681 of 2015 (O&M)

Commander, 32, Border Road Task Force C/o 56 APO and another

.....Appellants

Versus

Garvil and others

...Respondents

(4)

FAO No.8682 of 2015 (O&M)

Commander, 32, Border Road Task Force C/o 56 APO and another

.....Appellants

Versus

Minakshi and another

...Respondents

(5)

FAO No.8683 of 2015 (O&M)

Commander, 32, Border Road Task Force C/o 56 APO and another

.....Appellants

Versus

Minakshi and another

...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. Vivek Chauhan, Advocate for appellants.

DARSHAN SINGH, J.

This judgment of mine shall dispose of all the above mentioned five appeals, filed by Commander, 32, Border Road Task Force C/o 56 APO and another (respondent No.2 in the claim petitions) against the award dated 04.09.2015, passed by the learned Motor Accidents Claims Tribunal, Karnal (hereinafter called the 'Tribunal'), vide which the claim petitions filed by the respondents-claimants have been partly allowed.

2. All these appeals have been preferred by Commander, 32, Border Road Task Force C/o 56 APO and another, the owner of the vehicle, to assail the award passed in favour of the claimants.

3. FAO No.8677 of 2015 has arisen out of MACP case No.230

of 2013 titled Mafi Devi Vs. Bodh Raj and another, wherein respondent-claimant Mafi Devi has claimed compensation on account of the injuries suffered by her in the motor vehicular accident which took place on 23.03.2012.

4. Learned counsel for the appellant contended that the learned Tribunal has wrongly awarded the medical expenses to the tune of Rs.30000/- without any proof. The learned Tribunal has already awarded a sum of Rs.2,33,660/- towards the treatment and hospital charges, so there was no justification to award further Rs.30000/- towards cost of medicines. Thus, he contended that the compensation has been awarded for the amount which was not justified.

5. I have duly considered the aforesaid contentions.

6. Learned Tribunal has awarded a total sum of Rs.3,04,660/- to the claimant as compensation on account of the injuries suffered by her in this accident. The claimant has placed on file the bills regarding her treatment and hospital charges. The total of these bills is Rs.2,33,660/-. The learned Tribunal has further awarded Rs.30,000/- towards cost of medicines which claimant might have purchased. Claimant Mafi Devi has suffered serious injuries on her head, abdomen and multiple fractures of ribs. She was brought to the hospital of PW-4 Dr. Parveen Garg in critical condition. Emergency tracheotomy with ventilation was done. She remained hospitalized with effect from 23.03.2012 to 10.04.2012. Thus, keeping in view all these circumstances, in view of the injuries received by claimant Mafi Devi, the nature of her treatment and the period of hospitalization,

Rs.30,000/- awarded by the learned Tribunal towards the cost of medicine, which the claimant might have to purchase, cannot be stated to be unjustified. Hence, I do not find any illegality in the award of compensation by the learned Tribunal in favour of claimant-respondent Mafi Devi.

7. FAO No.8678 of 2015 has arisen out of the MACP case No.231 of 2013 titled as Minakshi Vs. Bodh Raj and others, wherein claimant Minakshi has sought compensation on account of death of her 10 months old son Daksh. The learned Tribunal has awarded a compensation of Rs.2,00,000/-. The learned counsel for the appellant could not raise any serious challenge to the aforesaid award and cannot allege how this amount of Rs.2,00,000/- can be described to be excessive. So, this appeal has no merit.

8. FAO No.8681 of 2015 has arisen out of MACP case No.234 of 2013 titled Garvil and others Vs. Bodh Raj and others, which has been filed by Garvail minor son of Smt. Mafi Devi and others for grant of compensation on account of death of Sunil Kumar in the present motor vehicular accident. The learned Tribunal has awarded the compensation of Rs.14,76,000/- to the claimants.

9. Learned counsel for the appellant contended that the Tribunal has wrongly added 50% future prospects to the income of the deceased. The multiplier has also been wrongly applied.

10. As per the case of the claimants, the deceased was working as Unit Manager with TATA AIG Life Insurance Company. He was also rendering insurance advise to Max New York and used to earn Rs.15,000/-

per month. But as the claimants have not produced any evidence with respect to avocation and income of deceased Sunil Kumar, so the deceased was considered as unskilled worker by the learned Tribunal and his monthly income was determined to be Rs.6000/- per month. The learned Tribunal has awarded 50% increase in the income of deceased towards the future prospects. Admittedly, deceased Sunil Kumar was 25 years of age as per his PMR Ex.P72. The three-Judges Bench of the Hon'ble Apex Court in case ***Munna Lal Jain and another Vs. Vipin Kumar Sharma and others 2015(3) PLR 304***, granted the future prospects in case of the self-employed person following the observations in ***Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54***, wherein it was laid down as under :-

*“11. As far as future prospects are concerned, in **Rajesh and others Vs. Rajbir Singh and others (2013) 9 SCC 54**, a three-Judge Bench of this Court held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects. To quote:*

“8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma case and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.”

The deceased being of the age of 30 years, 50% is the required addition.”

11. So, the learned Tribunal was fully justified in adding 50% of the income of the deceased towards the future prospects.

12. I also do not find any error in applying the multiplier of 18 as the deceased was 25 years of age. 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***, the multiplier of 18 was applicable where the deceased was in age group of 15 to 25. So, the multiplier has also been correctly applied by the learned Tribunal. So, the award of compensation in this case also suffers from no illegality.

13. FAO No.8682 of 2015 has arisen out of MACP case No.228 of 2013 titled as Minakshi Vs. Bodh Raj and others. This claim petition was filed by claimant-respondent Minakshi for grant of compensation on account of the injuries suffered by her. The learned Tribunal has awarded a total sum of Rs.1,14,764/- on account of the injuries suffered by her in this accident.

14. The learned counsel for the appellant contended that the learned Tribunal has awarded excessive amount for medical expenses and loss of income.

15. The learned Tribunal has awarded only Rs.50,000/- towards the medical expenses. The claimant produced the bills Ex.P49 to Ex.P70 for a sum of Rs.1,01,609/-. Those bills have been ignored by the Tribunal

simply on the ground that no doctor was examined who had treated the claimant. The view so taken by the learned Tribunal was too technical. Thereafter, the learned Tribunal keeping in view the nature of the injuries suffered by the claimant Minakshi and by adopting rational pragmatic approach with a view to award just compensation, has awarded Rs.50,000/- towards the cost of medicines which cannot be stated to be excessive by any stretch of imagination as the learned Tribunal has not awarded any amount towards treatment and hospital charges.

16. Claimant Minakshi has suffered serious injuries *i.e.* fracture both bone left forearm, left elbow with right supra, condylar fracture femur. She also underwent operation. In view of these injuries, the learned Tribunal has rightly determined that she would not have been able to work for at least six months. I do not find any illegality in the notional income of claimant Minakshi determined by the learned Tribunal as Rs.8601/- per month. So, no fault can be found by the learned Tribunal awarding Rs.34,764/- as compensation on account of loss of income. Thus, there is no merit in this appeal.

17. FAO No.8683 of 2015 has arisen out of MACP case No.229 of 2013 filed by claimant-respondent Minakshi for grant of compensation on account of death of her husband, who was 29 years of age and was serving with 19 Punjab Regiment, Head Quarter at Ramgarh. She has been awarded compensation to the tune of Rs.29,66,400/.

18. Deceased Surender Kumar was posted as a Constable in 19 Punjab Regiment at Ramgarh and was getting Rs.21,000/-per month as

salary. On the basis of record, the learned Tribunal has taken the salary of deceased Surender Kumar to be Rs.17,304/- per month. The future prospects have been awarded. The learned Tribunal has also rightly taken into consideration other conventional heads while computing the compensation. Learned counsel for the appellant could not lay any serious challenge to the amount of compensation computed by the learned Tribunal. So, there is no illegality in award which can call for any interference to the compensation awarded to Minakshi.

19. Thus, keeping in view my aforesaid discussion, all these appeals are without any merit and same are hereby dismissed.

30.05.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**