

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

**FAO No.5294 of 2003
Date of decision : 18.01.2017**

Ganesh Parshad and others

.....Appellants

Versus

Satyawan and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Sushil Bhardwaj, Advocate for appellants.

Mr. Neeraj Khanna, Advocate for respondent-
Insurance Company.

DARSHAN SINGH, J.

The present appeal has been preferred against the award dated 12.11.2003, passed by the learned Motor Accidents Claims Tribunal, Karnal (hereinafter called the “Tribunal”), in a petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short the “Act”), whereby the appellants-claimants No.1 & 2, the parents of deceased Rajesh alias Rakesh Kumar Chandan have been awarded compensation to the tune of ₹1,85,000/- on account of death of their son named above caused in the motor vehicular accident which took place on 30.08.2002.

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 record of the case carefully.

4. Initiating the arguments, learned counsel for the appellants-claimants contended that the deceased was a young man of 22 years of age but no future prospects have been awarded towards his income. He further contended that the multiplier has also been wrongly applied as per the age of the appellants-claimants (parents). Very less amount has been awarded for funeral expenses and no amount has been awarded to the appellants-claimants towards loss of love and affection of their son. Thus, he contended that just amount of compensation has not been awarded.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the deceased was an unskilled labourer and a casual worker. He was not holding any permanent job, so no future prospects were required to be added to his income. He further contended that the multiplier has been rightly applied by the learned Tribunal as per the age of the claimants. Thus, he contended that the appellants-claimants are not entitled for enhancement in the amount of compensation.

6. I have duly considered the aforesaid contentions.

7. As per the case of the appellants-claimants the deceased was running a tailoring shop and was earning ₹10,000/- per month. But on appreciation of the evidence brought on record by the appellants-claimants the learned Tribunal held that the claimants have not been able to establish that the deceased was running a tailoring shop. No fault can be found with this conclusion of the learned Tribunal which is based on the correct

appreciation of the evidence. The learned Tribunal has treated the deceased as unskilled labourer and has taken the income of the deceased to be ₹2000/- per month as per the minimum wages prevalent at the relevant time. But the learned Tribunal has not added any future prospects to the income of the deceased. The deceased was a young boy. He was hale and hearty. Even if he would have been working as unskilled labourer his income was bound to increase with the passage of time. Thus, in view of the age of the deceased, 50% of his income should have been added towards the future prospects. In this way, the total income of the deceased comes to ₹3000/- per month i.e. ₹36,000/- per annum.

8. The deceased was unmarried. The learned Tribunal has awarded compensation only to the parents of the deceased. So, 50% of the income of the deceased has to be deducted towards his personal and living expenses. The remainder comes to ₹18,000/- per annum. The learned Tribunal has wrongly applied the multiplier as per 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) PLR 304***, the multiplier would be applicable as per the age of the deceased. The deceased was 22 years of age at the time of his accidental death, so the multiplier of 18 shall be applicable. The compensation on account of loss of dependency comes to ₹3,24,000/-.

9. In addition to that, the appellants-claimants shall be entitled to a sum of ₹25,000/- towards funeral and last rites expenses. They will also be entitled to a sum of ₹1,00,000/- towards loss of love and affection of

their son. So, the total amount of compensation payable to the appellants-claimants No.1 & 2 comes to ₹4,49,000/-.

10. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The total amount of compensation payable to appellants-claimants No.1 & 2 is enhanced to ₹4,49,000/- from ₹1,85,000/- as awarded by the Tribunal. The enhanced amount of compensation be deposited with the learned Tribunal within a period of 45 days from today, failing which the appellants-claimants shall be entitled to interest at the same rate as awarded by the learned Tribunal from the date of filing the claim petition till realisation. The liability to pay the enhanced amount of compensation and apportionment amongst the appellants-claimants shall remain same as determined by the learned Tribunal in the main award.

11. 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.

18.01.2017

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No