

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

FAO No.3899 of 2012(O&M)

Date of decision: 3.10.2017

Rajbala and others

.....Appellants

VERSUS

Suresh Pol and others

.....Respondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. S.K. Dhanda, Advocate for
 Mr. Rajesh Lamba, Advocate for the appellants.

 Mr. D.K. Prajapati, Advocate for respondent No.3.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Gurgaon (in short 'the Tribunal') in regard to death of Satish Kumar in a motor vehicular accident that took place on 18.06.2010.

The Tribunal awarded compensation of Rs.6,03,200/-, payable with interest at the rate of 7.5% per annum from the date of petition till realization.

Counsel for the appellants has submitted that income of the deceased assessed by the Tribunal is on lower side and liable to be enhanced. The claimants are entitled to benefit of increase in income for future prospects to the extent of 50%. Adequate compensation may be allowed under conventional heads in the light of judgments of Hon'ble the Supreme Court **Rajesh and others Vs. Rajbir Singh and others, 2013 (3)**

RCR (Civil) 170 and Vimal Kanwar and others Vs. Kishore Dan and others, 2013 (2) RCR (Civil) 945.

Counsel representing the insurance company, on the other hand, would urge that claimants are not entitled to benefit of increase in income for future prospects as the matter with regard to grant of future prospects is pending consideration before a Larger Bench of Hon'ble the Supreme Court in view of reference made in **National Insurance Company Ltd. vs. Pushpa, SLP (C) No.16735 of 2014, decided on 02.07.2014.**

The Tribunal has assessed income of the deceased at Rs.3,600/- per month by treating him as a labour. As per notification issued by the State of Haryana fixing minimum wages, income of the deceased is assessed at Rs.4,350/- per month. The deceased was 21 years old at the time of occurrence and left behind his widow and two minor children namely Vipin and Baby Rakhi. There is nothing on record suggestive of the fact that the deceased was suffering from any disability to impair his capacity to work and earn livelihood for himself and his family. The State Governments revise minimum wages at short intervals, may be, quarterly or bi-annually. Under the circumstances, the mere fact that reference is pending before a Larger Bench of Hon'ble the Supreme Court is not sufficient to deny benefit of increase in income for future prospects to the extent of 50% till the judgment in **Rajesh and others' case** (supra) is varied or set aside.

The Tribunal has rightly applied cut of 1/3rd for personal expenses and multiplier of 18 for computing loss of dependency. In this manner, loss of dependency comes to Rs.9,39,600/- [Rs.9,39,600/-

(Rs.4350 x 12 x 18) + Rs.4,69,800/- (50% future prospects) – Rs.4,69,800/- (1/3rd deduction towards personal expenses)].

Under conventional heads, the claimants shall be entitled to following compensation:-

Loss of consortium to the widow	Rs.1,00,000/-
Loss of love and affection to children	Rs.1,50,000/- (to be shared equally)
Expenses on funeral/last rites	Rs.25,000/-
Loss of estate	Rs.25,000/-

In view of the above, total compensation comes to Rs.12,39,600/- and the enhanced compensation is Rs.6,36,400/- (Rs.12,39,600/- - Rs.6,03,200/-). The enhanced compensation shall carry interest at the rate of 7.5% per annum from the date of petition till realization, payable to children of the deceased in equal share except loss of consortium to widow of the deceased. The amount falling to share of the minor claimants shall be deposited in Fixed Deposit Receipts till they attain the age of majority or for a period of 3 years whichever is later. The interest accruing on the Fixed Deposit Receipts shall be paid to the mother for meeting expenses on their education and living.

The appeal is partly allowed in the aforesaid terms.

OCTOBER 3, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no