

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

FAO No.2542 of 2015 (O&M)

Date of decision: 14.09.2017

Mariyam Khatun and others

...Appellants

Versus

Mohd. Jabir and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arvind K. Yadav, Advocate
for the appellants.

Mr. Puneet Jain, Advocate
for respondent No.3-Insurance Company.

REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation with regard to death of Mohd. Manjur Alam in a motor vehicular accident that took place on 19.11.2013.

The Tribunal assessed income of the deceased at Rs.6700/- per month, deducted 1/4th for personal and living expenses and applied multiplier of 16 to compute loss of dependency at Rs.9,64,800/-. In addition, an amount of Rs.25,000/- for funeral expenses and Rs.1 lakh for loss of consortium to the widow has been awarded making total compensation to Rs.10,89,800/-, payable with interest @7.5% per annum from the date of petition till realization.

Counsel for the appellants would urge that the Tribunal has not

allowed benefit of increase in income for future prospects to the extent of 50% in the light of judgment of Hon'ble the Supreme Court **Rajesh and others Vs. Rajbir Singh and others, (2013) 9 SCC 54**. Compensation awarded under conventional heads needs enhancement.

Counsel representing the insurance company, on the contrary, has submitted that the claimants failed to adduce satisfactory much less cogent evidence on record to establish their plea that the deceased was running puncture shop on NH-8, Bawal much less earning Rs.15,000/- per month. The minimum wage for a skilled worker fixed by the State of Haryana and available at the relevant time was less than Rs.6700/- per month. The claimants are not entitled to benefit of future prospects as the matter 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)**.

I have heard counsel for the parties, perused the paper book particularly the award impugned.

The claimants raised a plea that the deceased was a mechanic and running a tyre puncture shop at Bawal. A statement to this effect was made by Mariyam Khatun widow of the deceased but her testimony does not find corroboration from an independent source much less documentary evidence. Under the circumstances, income of the deceased is to be assessed on the basis of minimum wage available to a skilled person at the

relevant time. Taking into consideration the minimum wage of a skilled worker at Rs.5865/-, loss of dependency comes to $(Rs.5865 \times 12 \times 16) + (50\% \text{ towards future prospects}) - (1/4^{\text{th}} \text{ towards personal expenses}) = Rs.12,66,840/-$

Compensation awarded by the Tribunal for funeral expenses Rs.25,000/- and loss of consortium Rs.1 lakh is ordered to be affirmed. The minor children of the deceased are awarded an amount Rs.2.25 lakh for loss of love and affection, care and guidance of their father. Further an amount of Rs.25,000/- is awarded for loss of estate. The total compensation comes to Rs.16,41,840/- and additional amount is Rs.5,52,040/- (Rs.16,41,840 – Rs.10,89,800), payable with interest @7.5% per annum from the date of petition till realization, to minor children of the deceased in equal ratio, to be deposited in Fixed Deposit Receipts till they attain the age of majority or for a period of three years, whichever is later. Interest accrued on FDRs shall be payable to their mother for education and livelihood of the minors.

The appeal is partly allowed in the aforesaid terms.

14.09.2017

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No