209.

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

I. **FAO-6968-2014 (O&M)**

Date of decision: 12.01.2018

Shri Ram General Insurance Company Ltd.

... Appellant

Versus

Kuldeep & Ors.

... Respondents

II. **FAO-9269-2014 (O&M)**

Kuldeep

... Appellant

Versus

Rattan Lal & Ors

... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Arun Sharma, Advocate and
Mr. Tajender K. Joshi, Advocate,
for the appellant in FAO-6968-2014 and
for respondent No.3 in FAO-9269-2014.

Mr. R.S. Mamli, Advocate,
for respondent No.1 in FAO-6968-2014 and
for the appellant in FAO-9269-2014.

HARI PAL VERMA, J. *(Oral)*

CM-25757-CII-2014 IN FAO-9269-2014

Prayer in this application filed under Section 5 of Limitation Act read with Section 151 CPC, is for condonation of delay of 58 days in filing the appeal.

For the reasons stated in the application, same is allowed and the delay of 58 days in filing the appeal is condoned.

FAO Nos.6968 and 9269 of 2014

This order shall dispose of two appeals i.e. FAO No.6968 of 2014 titled as '***Shri Ram General Insurance Company Limited versus Kuldeep and others'*** and FAO No.9269 of 2014 titled as ***'Kuldeep versus Rattan Lal and others'*** as both the appeals have been filed against the common award dated 10.03.2014 passed by learned Motor Accident Claims Tribunal, Kurukshetra. However, for the sake of brevity, facts are being taken from FAO No.6968 of 2014.

FAO No.6968 of 2014 has been filed by the Insurance Company impugning the award dated 10.03.2014 passed by Motor Accident Claims Tribunal, Kurukshetra (for short, '*the Tribunal'*) whereas the FAO No.9269 of 2014 has been filed by the claimant seeking enhancement of compensation.

Briefly stated, claimant-Kuldeep Singh had filed a claim petition under Sections 166/140/141 of the Motor Vehicles Act, 1988 on account of death of his brother Jaswinder Singh in a motor vehicular accident which took place on 03.01.2013. On that day, the deceased along with Jaswant Singh, went to Shahabad on a motorcycle (*Hero Honda Splendor)* bearing registration No.HR-54A-2142 for some work. When they reached near Mata Rukmani Arya Senior Secondary School, they stopped the motorcycle in front of Barara Road, Shahabad on kacha berm. Jaswinder Singh was standing on kacha berm of road, in the meantime, a Tata Canter bearing registration No.UP-83R-9915, being driven rashly and negligently on a high speed without observing traffic rules came from the side of G.T. Road Shahabad and gave a direct hit to Jaswinder Singh (deceased) who fell on the ground. Wheel of the canter crushed his head, as a result of which he died at the spot.

Deceased -Jaswinder Singh was 23 years of age at the time of accident. He was working as a Mason. The Tribunal while considering the deceased as a daily wager, assessed his monthly income at ₹5,000/- per month. 50% of amount was added towards the future prospects. Since the deceased was a bachelor and issue-less, the Tribunal deducted an amount of 60% towards the personal expenses of deceased. Considering the age of claimant who was 40 years of age, the Tribunal applied multiplier of 15. An amount of ₹10,000 was awarded towards the love and affection. ₹5,000/- was added towards the funeral expenses. Thus total compensation of ₹5,55,000/- was granted to the claimant. The break-up of amount of compensation is as under:-

"Monthly Salary	=	*₹5,000/- per month*
Amount on account future prospects (50%).	=	*₹2,500/- per month*
Total	=	*₹7500/- per month*
Annual Income	=	*7500x12=₹90,000/-*
Annual dependency (40%)	=	$\frac{90000 \times 40}{100}$ *= ₹36,000/-*
Total loss of dependency	=	*36000x15= ₹5,40,000/-*
Love and affection	=	*₹10,000/-*
Funeral expenses	=	*₹5,000/-*
Total	**=**	***₹5,55,000/-"***

Learned counsel for the appellant-Insurance Company has argued that in view of law laid down by Hon'ble Apex Court in ***National Insurance Company Limited Versus Pranay Sethi and Others - 2017(4) RCR (Civil) 1009,*** the award dated 10.03.2014 is required to be revisited and the amount under the head of future prospects has to be calculated on the basis of 40% instead of 50% as awarded by the Tribunal.

On the other hand, learned counsel for the claimant has argued that the deduction of 60% of amount towards the personal expenses of deceased made by the Tribunal is on the higher side and it should have been 50%. Similarly, considering the age of the deceased, the multiplier of 18 should have been applied instead of 15.

I have heard learned counsel for the parties.

The argument qua future prospects, raised by learned counsel appearing on behalf of Insurance Company carries weight. In view of the law laid down in ***Pranay Sethi's case*** *(supra),* the future prospects have to be assessed @ 40% and not 50%. Similarly the deduction of 60% made by the Tribunal qua the personal expenses of deceased requires to be modified to the extent of 50%. As deceased was a bachelor and issueless, the Tribunal has rightly applied the multiplier of 15, considering the age of the claimant.

Accordingly, on the basis of monthly salary as assessed by the Tribunal and adding 40% towards future prospects, the total monthly of the deceased comes to ₹7,000/- (i.e.5,000+40%). Thus, the annual income comes to ₹84,000/-. After deducting 50% amount towards the personal expenses of the deceased, the annual dependency comes to ₹42,000/- (i.e. 84,000 - 50% deduction). Applying the multiplier of 15, the total compensation under the head loss of dependency comes to ₹6,30,000/- (i.e. 42000 x 15). However, the compensation under the conventional heads i.e. love and affection and funeral expenses as awarded by the Tribunal, shall remain intact. The enhanced amount of compensation shall fetch interest @ 7.5% p.a. from the date of filing of claim petition till realization.

With the above modification in the award, both appeals shall stand disposed of.

(HARI PAL VERMA)
JUDGE

12.01.2018
SANJEEV

Whether speaking/reasoned : Yes/No.

Whether Reportable : Yes/No.