

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

213

FAO-7741-2014

Date of Decision:02.05.2018

Roshni and another

.....Appellants

Versus

Umesh Bishnoi and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Divay Sarup Sharma, Advocate,
for the appellants.**

**Mr. M.B. Jain, Advocate,
for respondent No.3-Insurance Company.**

HARI PAL VERMA, J.(Oral)

Appellants have filed the present appeal seeking enhancement of compensation over and above the amount awarded by learned Motor Accident Claims Tribunal, Hisar (for short “the Tribunal”) vide award dated 27.03.2014.

The claimants have filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation on account of death of Ms. Pushpa, daughter of the claimants, in a motor vehicular accident, which took place on 02.05.2011. Pushpa (since deceased) was about 19 years of age and was a student of Nursing Training Course/ANM at Churu (Rajasthan).

On 02.05.2011, Nar Singh son of Zile Singh along with pillion

riders Pushpa and Sharmila daughters of Lila Ram, were going to village

Hindwan from Hisar on a motorcycle being driven by Nar Singh. The vehicle was being driven on the extreme left side of the road and had hardly reached near Chandan Nagar, Hisar, when the offending car bearing registration No.RJ-31CA-1488 being driven by respondent No.2 came from behind in a rash and negligent manner and struck against the motorcycle. As a result of this accident, all the occupants of the motorcycle fell down and sustained multiple injuries. The driver of the offending vehicle after causing the accident fled away from the spot. In the said accident, Pushpa succumbed to her injuries on the way to hospital. An FIR No.330 dated 02.05.2011 under Sections 279, 337, 304-A IPC was registered at Police Station, Sadar Hisar in this regard.

Considering the age of the deceased as 19 years and while relying upon the judgment of the Hon'ble Apex Court in **Rajesh and others Versus Rajbir Singh and others**, 2013 ACJ-1403 (SC), the Tribunal added 50% income of the deceased towards future prospects. In this manner, the Tribunal assessed the income of the deceased as ₹6,000/- and by adding future prospects, it came to ₹9,000/- per month. Considering the age of the deceased as 19 years, multiplier 18 was applied in view of law laid down by the Hon'ble Apex Court in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another**, 2009(6) SCC 121. After applying multiplier 18, the total loss of dependency was calculated as ₹9,72,000/-. An amount of ₹1,00,000/- towards loss of love and affection and ₹25,000/- were awarded on account of transportation and last rites of the deceased. Thus, the Tribunal awarded a total compensation of ₹10,97,000/-.

Not satisfied with the aforesaid amount of compensation, the

appellants-claimants have preferred the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that deceased-Pushpa was pursuing a professional Nursing Training Course/ANM at Churu (Rajasthan). After acquiring her professional qualification, there was bright scope of her employment and therefore, the Tribunal has wrongly assessed the income of the deceased as ₹6,000/- per month. However, so far as the applicability of multiplier in the case is concerned, learned counsel for the appellants states that he has no serious contest.

On the other hand, learned counsel for respondent No.3-Insurance Company has argued that adequate compensation has already been granted, rather case of the claimants is required to be re-visited as the Tribunal has added 50% future prospects but as held by the Hon'ble Apex Court in case **National Insurance Company Limited Versus Pranay Sethi and others**, 2017 (4) R.C.R (Civil) 1009, an addition of 40% is admissible towards future prospects. Similarly, under the conventional heads, the Tribunal has awarded a higher amount. As against the awarded amount of ₹1,00,000/- towards loss of love and affection, an amount of ₹15,000/- is admissible for loss of estate and even under funeral expenses, ₹15,000/- is admissible. Thus, as against the awarded amount of ₹1,25,000/- under the conventional heads, the claimants are entitled to ₹30,000/- (i.e. ₹15,000/- on account of loss of estate and ₹15,000/- on account of funeral expenses).

I have heard the learned counsel for the parties.

There is no dispute that deceased Pushpa was 19 years of age at the time of accident. Since she was not in a permanent job, the Tribunal

was required to make an addition of 40% towards future prospects instead of 50%. Similarly, as against the awarded amount of ₹1,00,000/-, towards loss of love and affection and ₹25,000/- on account of transportation and last rites of the deceased, the claimants are entitled for admissible amount of ₹30,000/- (i.e. ₹15,000/- on account of loss of estate and ₹15,000/- on account of funeral expenses). However, considering the fact that the deceased Pushpa was pursuing a professional Nursing Training Course/ANM, this Court finds that the Tribunal has assessed the income of the deceased on the lower side. There is a difference between a trained professional and a skilled labourer. In the case in hand, deceased Pushpa was not a skilled labourer, rather she was pursuing a professional course with all legitimate expectations that she would get good remuneration after getting the degree. Therefore, this Court finds that income of the deceased should have been considered as ₹8,000/- per month.

Accordingly, the compensation to which the claimants are entitled is re-assessed in the following manner:-

Monthly income	:	₹8,000/-
Future prospects (40%)	:	₹3,200/-
Total monthly income	:	₹11,200/-
Annual income	:	₹1,34,400/-
Annual dependency (after 50% deduction)	:	₹67,200/-
Total loss of dependency (₹67,200/-x 18)	:	₹12,09,600/-
Loss of estate	:	₹15,000/-
Funeral expenses	:	₹15,000/-

Total amount of compensation	:	₹12,39,600/-
Amount already awarded	:	₹10,97,000/-

Enhanced amount : ₹1,42,600/-

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of claim-petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

May 02, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No