

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

**CM No.23462-CII of 2014 in/and
FAO No.1830 of 1999 (O&M)
Date of Decision: October 20, 2015.**

Narinder Kaur and others

.....APPELLANT(s).

VERSUS

Tara Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Yogesh Goel, Advocate
for the appellant (s).

Mr. Alok Jain, Advocate
for respondent No.1.

Mr. Vaibhav Sehgal, Advocate
for respondent No.2.

SURINDER GUPTA, J.

This is appeal against the award dated 02.02.1999 passed by Motor Accident Claims Tribunal, Ludhiana whereby compensation of ₹1,68,000/- was awarded for the death of Gurdeep Singh in a motor accident with truck No.PCK-387 (later referred to as the offending vehicle). The Tribunal computed the amount of compensation by taking the income of the deceased as ₹18,000/- per annum after applying deduction of 1/3rd towards personal and living expenses and multiplier of 14, the total amount of compensation was calculated as ₹1,68,000/-. The claimant was also awarded interest @ 12% per annum from the date of filing of the claim petition till the

realization of the award amount.

2. As the only issue involved in this appeal is of quantum of compensation, the facts in detail are not being discussed.

3. Learned counsel for the appellants-claimants has argued that the Tribunal has wrongly applied the multiplier of 14 instead of 16 in view of the age of the deceased, who was 32 years of age at the time of his death. No compensation was allowed for loss of consortium for claimant No.1 Narinder Kaur wife of deceased and for loss of love and affection, care and guidance for the minor children i.e. claimants No.2 and 3. The Tribunal has also not allowed any compensation towards funeral expenses and future prospects.

4. Learned counsel for respondent No.2 has argued that the matter was finally settled with claimants Narinder Kaur and Sukhbir Singh and they were paid an amount of ₹1,68,000/- as awarded by the Tribunal towards full and final settlement of the claim, as such, this appeal be dismissed on this short ground. The application to this effect was filed by respondent No.2 which has not been replied by the claimants. He has further argued that the accident had taken place in the year 1994 and the Tribunal has not allowed any addition in the income of the deceased towards future prospects as this concept was not prevalent at that time. In view of the settlement of the dispute with the claimants, they are not entitled to any compensation towards loss of love and affection care and guidance, consortium, funeral expenses etc.

5. Firstly, I take the point raised by learned counsel for respondent No.2 regarding settlement with the claimants. As per the copy of the order

dated 08.05.2008 placed on record, a settlement had taken place between the

claimant and respondent during the execution proceedings under which a sum of ₹1,68,000/- was paid by the respondent. The statement was made in the Court that the claimants have received entire compensation and nothing was due towards judgment-debtor. Under this settlement, the execution proceedings were consigned. It is apparent on the perusal of the settlement between the parties that no settlement had taken place regarding the claim raised in this appeal by the claimants. The claimants were allowed a sum of ₹1,68,000/- with interest @ 12% per annum from the date of filing of claim petition till realisation. The amount of ₹1,68,000/- was paid in the year 2008 i.e. 14 years after filing of the claim petition. The amount of interest that accrued on the compensation amount was 168% approximately of the compensation amount. The settlement is to be read to this context that the claimants have agreed to receive principle amount and have forgiven their claim regarding the interest. Had there been any settlement regarding the claim raised in this appeal, this fact must have been specifically mentioned in the settlement. This plea of learned counsel for respondent no.2 has no merits and as such, the application i.e. CM No.23462-CII of 2014 is declined.

6. In view of the ratio of law laid down in case of ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447*** and ***Rajesh and others Vs. Rajbir and others (2013)9 SCC 54***, the claimants are entitled to 50% addition in the income of the deceased towards future prospects keeping in view the age of the deceased as assessed by the Tribunal. As per the observations in case of ***Sarla Verma and others Vs.***

Delhi Transport Corporation and Anr. (2009)6 SCC 121, multiplier of 16 is

to be applied while calculating the amount of dependancy. The appellant-claimant No.1 is also entitled to compensation for loss of consortium and claimants No.2 and 3 for loss of love and affection, care and guidance. The appellants-claimants are also entitled for compensation towards funeral expenses. Keeping in view the fact that the accident had taken place in the year 1994, claimant No.1 is allowed ₹50,000/- towards loss of consortium and claimants no.2 and 3 are allowed ₹50,000/- towards loss of love and affection, care and guidance for the minor. The claimants are also allowed ₹15,000/- towards funeral expenses.

7. In view of my above discussion, the amount of compensation to which the claimants are entitled to is tabulated as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹18000 per annum
(ii)	50% of (i) above to be added as future prospects	(₹18000+ ₹9000)= (₹27000 per annum)
(iii)	1/3rd of (ii) above is to be deducted as personal expenses of the deceased	(₹27000-₹9000)= ₹18000 per annum
(iv)	Compensation after multiplier of 16 is applied	(₹18000X16)= ₹2,88,000
(v)	For loss of consortium	₹50000
(vi)	For loss of love and affection and loss to the estate	₹50000
(vi)	Funeral and transportation expenses	₹15000
<i>Total</i>		₹4,03,000

8. The appeal is accepted. The award of the Tribunal is modified and the amount of compensation is enhanced from ₹1,68,000/- to ₹4,03,000/- for the death of Gurdeep Singh. The appellants-claimants shall also be entitled to interest on the enhanced amount of compensation @ 7.5% per annum from the date of filing of the petition till actual realization. The

amount of enhanced compensation shall be shared equally by the claimants.

The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹10,000/-.

October 20, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE