IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 346 of 2002 (O&M)
Date of Decision : 28.05.2016

Bir Bhan and others .....Appellants

Versus

Sunil Kumar Singla and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sonu Giri, Advocate
for Mr. Sandeep Sharma, Advocate
for the appellants.

Mr. Gurmukh Singh, Advocate
and Mr. Alankrit Bhardwaj, Advocate
for respondents no. 1 and 2.

Mr. Pardeep Goyal, Advocate
for respondent no. 3.

Surinder Gupta, J.

This is appeal filed by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Panchkula (later referred to as 'the Tribunal') for death of Naresh Kumar (later referred to as 'the deceased') son of claimants no. 1 and 2 and husband of claimant no. 3 in a motor vehicle accident with car bearing registration No. HR-05E-0037 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal is seeking of enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. Case of claimants, in brief, is that on 24.02.2000 at about 06.15 p.m., the deceased was going on foot from his house to Sector 16, Panchkula. When he reached near house No. 2056, Sector 15, Panchkula, the offending vehicle hit him from backside as a result of which the deceased

was thrown on a letter box installed on the roadside and suffered grievous head injuries and became unconscious. He was rushed to PGI for treatment where he succumbed to injuries on 01.03.2000. He was a young boy of 27 years of age and was employed in the office of HUDA, Panchkula where he was getting ₹1903/- per month as salary. He was also doing part time job with different advocates and was earning ₹4000/- per month. He got married a year before his death.

4. The Tribunal assessed income of the deceased as ₹1903/- per month from his employment as *chowkidar* in the Enforcement Wing of HUDA where he was working as Typist and ₹750/- per month as part time Steno. After deducting his personal expenses as ₹900/-, loss of dependency was worked out as ₹1700/- and by applying the multiplier of 17, amount of dependency was worked out as ₹3,46,800/- to which ₹5000/- was added towards loss of consortium, ₹2000/- towards funeral expenses and ₹2500/- towards loss of estate.

5. Learned counsel for appellants has argued that the deceased was though employed as *chowkidar* but he was working as Typist in the office of HUDA. He was also working with various advocates and was earning ₹4000/- per month but the Tribunal has wrongly taken his part time salary as ₹750/- per month. The deceased was a young boy having brilliant future and would have been absorbed on permanent post in the office. As per observations in the case of ***Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54*** and ***Munna Lal Jain and others vs. Vipin Kumar Sharma and others, 2015 (3) RCR (Civil) 447***, claimants are also entitled to 50% addition in income of the deceased towards future prospects. The amount of compensation for the loss of consortium, loss of estate and funeral expenses allowed by the Tribunal is also on lower side. It is proved on file that after

the accident, the deceased remained in emergency wing of PGI and was fighting for life from 24.02.2000 to 01.03.2000. Though, claimants could not produce any bill of medical treatment but it can be well visualized that they had spent on medical treatment and transportation expenses, attendant etc. They had also suffered pain and suffering but the Tribunal has not allowed any compensation on this score.

6. Learned counsel for respondents have argued that the deceased was a Government employee, as such, could not go for part time job. He was a young boy, who got married just one year ago, as such, deduction towards his personal expenses should have been made by the Tribunal as 50% from his income instead of ₹900/- in lump sum. Claimants did not produce any bill of medical expenses, transportation expenses etc., as such, the Tribunal has committed no error by not allowing any compensation on this score.

7. The Tribunal has assessed monthly income of the deceased as ₹2653/- which was rounded off to ₹2600/- which included ₹750/- per month assessed as his income from part time job. Observations of the Tribunal regarding income of the deceased from part time job were based on statement of witnesses including advocate with whom he was working on part time basis, as such, I find no reason to take a different view about income of the deceased. As per observations in cases of ***Rajesh (supra)*** and ***Munna Lal Jain (supra)***, claimants are also entitled to 50% addition in income of the deceased towards future prospects. In case of ***Rajesh (supra)***, the Apex Court has allowed compensation of ₹1 lac for the loss of consortium for the wife. In case of ***Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476***, the Tribunal has also allowed compensation of ₹1 lac to mother of the deceased for loss of estate, love and

affection. The Tribunal has allowed compensation of ₹5000/- towards loss of consortium, ₹2000/- towards loss of estate, love and affection and ₹2500/- for the funeral expense, which is on lower side. Keeping in view the price index prevailing in the year 2000, compensation for the loss of consortium is enhanced to ₹50,000/-. For parents of the deceased, amount of compensation for loss of estate, love and affection and for funeral expenses are also enhanced to ₹50000 and ₹15,000/- respectively. The deceased remained admitted in PGI, Chandigarh for 6/7 days. He had received severe injuries. Though, claimants have not produced any evidence regarding medical expenses of the deceased but it can be well visualized that claimants suffered hospital charges, medical expenses, attendant charges, transportation charges as well as on account of pain and suffering. On all these accounts, a lump sum of ₹75,000/- is allowed as compensation.

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

Sr. No.	***Heads***	***Calculation***
(i)	Age of the deceased	27 years
(ii)	Income of the deceased	₹2600 per month as assessed by the Tribunal
(iii)	Income after deduction of ₹900 towards personal expenses of the deceased as assessed by the Tribunal	₹2600-₹900=1700
(iv)	50% of (iii) above to be added as future prospects	₹1700+₹850 = ₹2550 per month
(v)	Compensation after multiplier of 17 is applied (as already applied by the Tribunal)	(₹2550X12X17) = ₹520200
(vi)	Loss of consortium	₹50000
(vii)	Loss of estate, love and affection	₹50000
(viii)	Funeral expenses	₹15000
(ix)	Compensation for medical expenses and other conventional heads as discussed in para 7 above	₹75000
	Total	**₹710200**

9. As a sequel of my above discussion, the appeal is accepted. Award of the Tribunal is modified and compensation allowed to claimants is enhanced from ₹3,56,300/- to ₹7,10,200/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. The enhanced amount of compensation shall be shared by claimants as follows:-

(i)	Bir Bhan (father)	=	20%
(ii)	Smt. Kasturi Devi (mother)	=	40%
(iii)	Smt. Sushma Rani (wife)	=	40%

10. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank accounts or pay the same through demand drafts. Counsel fee is assessed at ₹20,000/-.

May 28, 2016 **(SURINDER GUPTA)**
jk **JUDGE**