IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2561 of 2002 (O&M)
Date of Decision : 23.08.2016

Bhano and others ....Appellants

Versus

Hukam Singh and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vinod K. Kanwal, Advocate
for Mr. Ashit Malik, Advocate
for the appellants.

Mr. Parveen Sharma, Advocate
For respondent no. 1.

None for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Panipat (later referred to as 'the Tribunal) for death of Satish Kumar (later referred to as 'the deceased'), son of claimants-appellants no. 1 and 5, husband of claimant-appellant no. 2, father of claimants-appellants no. 3 and 4, and brother of claimant-respondent no. 4, on 17.06.1999, in a motor vehicle accident with truck-trailer bearing registration No. HR-47-1212 (later referred to as 'the offending vehicle').

2. As claimants are seeking enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal allowed compensation of ₹4,42,000/- to claimants, which was computed as follows:-

Sr.No.	***Heads***	***Calculation***
(i)	Name of the deceased	Satish Kumar
(ii)	Age of the deceased	27 years
(iii)	Basic salary of the deceased	₹3130 per month
(iv)	₹1130 deducted towards personal expenses by the Tribunal	(₹3130-₹1130)= ₹2000 per month
(v)	Amount of dependency after applying the multiplier of 18	(₹2000x12x18)= ₹432000
(vi)	Funeral and last rites expenses	₹10000
Total		**₹442000**

4. Learned counsel for the appellants has argued that on record salary of the deceased was proved as ₹5494/- as per salary certificate (Ex. P-1) but the Tribunal took his basic salary only while computing amount of dependency. Claimants are also entitled to addition in income of the deceased towards future prospects as per observations of Apex Court in cases ***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** and for compensation towards loss of consortium for the wife, loss of love and affection care and guidance for children and loss of estate, love and affection for parents of the deceased.

5. The deceased was working as Packing Supervisor and was getting salary of ₹5494/- per month. His salary certificate (Ex. P-1) was proved on record by PW-1 Ashok Sharma, Personal Executive, M/s Rugs India, Krishanpura, Panipat, where the deceased was employed. The Tribunal took basic salary of the deceased @ ₹3130/- per month for the purpose of calculation of amount of dependency without giving any reason for discarding remaining components of the salary. Perusal of salary

certificate (Ex. P-1) shows that the deceased was getting house rent allowance, education allowance, EPF & ESI and conveyance allowance. Except conveyance allowance of ₹350/-, which was personal to the deceased, remaining allowances cannot be excluded from salary of the deceased, as such, monthly salary of the deceased is taken as ₹5144/- rounded off to ₹5150/-.

6. The deceased left behind four dependants besides his father and brother, as such, 1/4th of his income is to be deducted towards his personal expenses as per observations of Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another,*** ***(2009) 6 SCC 121*** and the multiplier applicable to this case is 17 and not 18 as applied by the Tribunal. As per observations of Apex Court in ***Rajesh's case (supra)*** and ***Munna Lal Jain's case (supra)***, claimants are entitled to 50% addition in income of the deceased towards future prospects. They are also entitled to compensation towards loss of consortium for the wife, loss of love and affection care and guidance for children and loss of estate, love and affection for parents of the deceased, which is quantified as ₹50,000/- on each head.

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

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased	₹5150 per month
(ii)	50% of (i) above to be added as future prospects	(₹5150+₹2575)= ₹7725 per month
(iii)	1/4th of (ii) deducted as personal expenses of the deceased	₹7725 -₹1931) = ₹5794 per month
(iv)	Compensation after multiplier of 17 is applied	(₹5794X12X17) = ₹1181976

(v)	Loss of consortium for wife	₹50000
(vi)	Loss of love and affection care and guidance for children	₹50000
(vii)	Loss of estate, love and affection for parents	₹50000
(viii)	Funeral expenses as assessed by the Tribunal	₹10000
	Total	₹1341976 (rounded off to ₹1342000)

8. As a sequel of my discussion above, the instant appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Satish Kumar is enhanced from ₹4,42,000/- to ₹13,42,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Amount of enhanced compensation shall be shared by claimants-appellants as follows:-

(i) Wife of the deceased : 40%

(ii) Children of the deceased : 20% each

(iii) Parents of the deceased : 20%

9. 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 with recovery rights as provided by Tribunal. The share of claimant-appellant No. 3-Anu, who is minor, will be deposited in some nationalized bank as fixed deposit till the period she attains majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and she shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in her name after the date of her attaining majority. The above direction has been issued to save the claimant from

unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after attaining the age of majority. Claimant no. 2-Smt. Devi, being mother and natural guardian of minor claimant shall be entitled to get interest on the share of minors deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of her brought up.

August 23, 2016 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No