IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.391 of 1995 (O&M)
Date of Decision: February 23, 2016.

Prem Lata and others

..........APPELLANT(s).

VERSUS

Shesha Singh and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. A.P. Singh, Advocate for
Mr. Atul Jain, Advocate
for the appellant (s).

Mrs. Vandana Malhotra, Advocate
for respondent No.3.

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SURINDER GUPTA, J.

Seeking enhancement of compensation allowed vide award dated 08.08.1994 by Motor Accident Claims Tribunal, Patiala (later referred to as 'the Tribunal'), Prem Lata and others have filed this appeal.

2. The case of the claimants, in brief, is that on 03.02.1992, Kishan Lal along with his wife Sunita Rani, sons Hitesh Mittal and Rahul @ Jolly, Ramesh Kumar (later referred to as 'the deceased'), his wife Prem Lata and their daughter Pallavi were returning to Barnala from Haridwar in car bearing registration No.PAS-936, when they were four kilometres away from Ambala towards Rajpura, a truck bearing registration No.HYX-9155 (later referred to as 'the offending vehicle') came from the side of Rajpura. It was being driven at a high speed, in a rash and negligent manner and hit the car,

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resulting in death of Ramesh Kumar (deceased), who was sitting on the front seat adjoining the driver, at the spot. Rahul @ Jolly also died in the accident and other occupants of the car received injuries.

3. The insurance company of the offending vehicle contested the claim petition denying that the accident was caused due to rash and negligent driving of driver of the offending vehicle.

4. On appraisal of evidence, the Tribunal recorded the finding that the accident had taken place due to rash and negligent driving of offending vehicle by its driver. The Tribunal computed compensation to be awarded to the claimants-appellants as follows:-

Income of the deceased	: ₹2,000/- per month.
Dependancy of claimants on income of deceased	: ₹1,300/- per month.
Age of the deceased	: 30 years.
Multiplier applied	: 15.
Total amount of compensation	: 1300X12X15=₹234000/-

5. As the vehicle was insured, insurance company was held liable to indemnify the owner of the offending vehicle by paying the amount of compensation.

6. Learned counsel for the appellants-claimants has argued that as per the settled proposition of law laid down in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121,*** the multiplier attracted in this case while computing the amount of compensation is 17. Claimants are wife, minor children and mother of the deceased. They are entitled to compensation for the loss of consortium, loss of love and affection, care and guidance for minor children and also loss of love and affection and loss of estate for the mother. As per the law laid down in case

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of ***Rajesh and others Vs. Rajbir and others (2013)9 SCC 54,*** claimants are entitled to compensation towards future prospects of deceased and towards funeral expenses. The Tribunal has not allowed any compensation under the conventional heads.

7. Learned counsel representing the insurance company has argued that accident had taken place in the year 1992. The Tribunal had to calculate just and reasonable compensation taking into account the financial status of the parties as prevailing at the relevant time. The amount of compensation allowed in this case is just and reasonable, taking into account the price index in the year 1992.

8. Learned counsel for the appellants-claimants has not challenged the income of the deceased as assessed by the Tribunal. As per the law settled by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra),*** when the deceased leaves behind four dependants, 1/4th of the income of the deceased is to be deducted towards his personal expenses and multiplier required to be applied while calculating amount of dependancies is 17 as the deceased was 30 years of age. As per the observations of Hon'ble Supreme Court in case of ***Rajesh and others Vs. Rajbir and others (supra) and Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447,*** the claimants are also entitled to addition of 50% of income of the deceased towards future prospects.

9. The concept of future prospects envisages chances or opportunities for success and further progress in life which is a normal course of event for every human being involved in any avocation. Even if,

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keeping in view his ability, capacity etc., one may not be in a position to rise in life, there is another aspect that justifies the grant of addition in the income of the deceased, which is the 'inflationary trend' in which we all are living. I take instance of a tailor. It is a matter of common knowledge that stitching charges have increased manifold during last two decades due to increase in expenses of material/labour charges/margin of persons in this profession, with consequential increase in their income. This is because of high increase in the cost of living. The dependants of a deceased in accident have also to face the same situation. The amount of compensation is required to be just and reasonable keeping the inflationary trend in view, where the prices of the basic amenities of life are likely to increase further.

10. As per the observations in cases of ***Smt. Neeta and others Vs. The Divisional Manager, MSRTC, Kolhapur 2015(1) RCR (Civil) 625 (SC) and Vimal Kanwar and others Vs. Kishore Dan and others 2013(7) SCC 476, Rajesh and others Vs. Rajbir and others (supra),*** claimants are entitled to compensation under the conventional heads i.e. for loss of consortium for the widow, loss of love and affection, care and guidance for minor children, loss of estate for mother of the deceased besides funeral expenses. The Tribunal while calculating the amount of compensation, has not allowed any compensation under the conventional heads. No doubt amount of compensation is to be assessed keeping in view the financial status of the parties and price index prevalent at the time of incident. This is why the Tribunal has taken the income of the deceased as ₹2,000/- per month, a fact not challenged by learned counsel for the appellants. However, compensation towards futures prospects and other conventional heads cannot

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be denied to the claimants.

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

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased (as assessed by the Tribunal)	₹2000 per month
(ii)	50% of (i) above to be added as future prospects	(₹2000+ ₹1000)= (₹3000 per month)
(iii)	1/4th of (ii) deducted as personal expenses of the deceased	(₹3000-₹750)= ₹2250 per month
(iv)	Compensation after multiplier of 17 is applied	(₹2250X12X17)= ₹4,59,000
(v)	For loss of the estate	₹25000
(vi)	For loss of consortium	₹25000
(v)	For loss of love and affection,care and guidance for minor children	₹25000
(vi)	Funeral expenses	₹5000
Total		₹5,39,000

12. The appeal is accepted. The award of the Tribunal is modified and the appellants-claimants are allowed compensation of ₹5,39,000/- for death of Ramesh Kumar. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the petition till actual realisation. The amount of enhanced compensation shall be shared by the claimants as per award of the Tribunal. Respondent No.3-insurance company will deposit the share of claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed at ₹10,000/-.

(SURINDER GUPTA)
JUDGE

February 23, 2016.
Sachin M.

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