IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 764 of 2000 (O&M)
Date of Decision : 26.02.2016

Sudha and others ....Appellants

Versus

Lakhbir Singh and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Naresh Kumar, Advocate
for the appellants.

Ms. Monika Jangra, Advocate
for Ms. Vandana Malhtora, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal filed by Sudha wife and minor children of Rajender, who died in a motor vehicle accident with truck bearing registration no. MOK-9538 (later referred to as 'the offending vehicle'), seeking enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Faridabad (later referred to as 'the Tribunal').

2. The Tribunal while computing the amount of compensation took salary of the deceased as ₹1500/- per month as per deposition of PW-4 Sh. D.S. Bhatia, Senior Executive (Personnel), Whirlpool of India Ltd. where the deceased was working as a helper. After making deduction of 1/3rd of his salary towards his personal expenses, the Tribunal applied multiplier of 18 and allowed compensation of ₹2,16,000/-.

3. As the factum of accident, rashness and negligence of driver of the offending vehicle are not in issue in this appeal, detailed facts as to how accident took place are not being

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discussed.

4. Learned counsel for the appellants has argued that the deceased has left behind his wife and two minor children. The Tribunal has not allowed any compensation towards loss of consortium for the wife, loss of love and affection, care and guidance for minor children, addition in income of the deceased towards future prospects and funeral expenses.

5. The deceased was employed as helper with M/s Kelvinator of India Ltd. which was later on taken over by Whirlpool a multinational company giving boost to future prospects of the deceased. While referring to observations of Apex Court in the case of ***Rajesh and others vs. Rajbir Singh and others*, 2013 (9) SCC 54**, learned counsel for the appellants has argued that the deceased, who was 25 years of age, is entitled to at least 50% of addition in income towards future prospects.

6. Learned counsel for respondent no. 2-Insurance Company has argued that the accident has taken place in the year 1994. The Tribunal has allowed compensation keeping in view the facts and circumstances, price index and financial condition of claimants at that point of time. The compensation allowed is just and reasonable amount of compensation as per financial status of claimants, as such, calls for no upwards revision.

7. The Tribunal has taken income of the deceased based on statement of his employer as ₹1500/- per month. Being an employee of M.N.C., the deceased had better future prospects and his income would have risen with the passage of time. As per law laid down by Hon'ble Supreme Court in the case of ***Rajesh***

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(supra), claimants are entitled to 50% addition in income of the deceased towards his future prospects. Wife of the deceased is also entitled to compensation towards loss of consortium and minor children towards loss of love and affection, care and guidance. In the above referred case of ***Rajesh (supra)***, the accident had taken place in the year 2007 and the compensation of ₹1 lac towards loss of love and affection, care and guidance was allowed and towards funeral expenses compensation of ₹25,000/- was allowed. In this case, the accident had taken place in the year 1994, when the price index was at a lower level than the price index of the year 2007. Taking the above facts into account, claimants are allowed compensation of ₹40,000/- towards loss of consortium and another sum of ₹40,000/- towards loss of love and affection, care and guidance for minor children besides ₹10,000/- towards funeral expenses.

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

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased Rajender	₹1500 per month
(ii)	50% of (i) above to be added as future prospects	₹1500 + ₹750 = ₹2250 per month
(iii)	1/3rd of (ii) deducted as personal expenses of the deceased	₹2250 - ₹750 = ₹1500 per month
(iv)	Compensation after multiplier of 18 is applied	(₹1500X12X18) = ₹324000
(v)	Loss of love and affection, care and guidance for children	₹40000
(vi)	Loss of consortium	₹40000
(vii)	Funeral expenses	₹10000
	Total	₹414000

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12. In view of 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 Rajender is enhanced from ₹2,16,000/- to ₹4,14,000/-. The amount of compensation will carry interest @ 7.5% per annum from the date of filing of the claim petitions till actual realization. The amount of compensation shall be shared equally by the claimants. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants in their bank accounts or pay the same through demand drafts. The share of appellants No. 2 and 3, who, as per their age given at the time of filing of the petition, are still minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minor as required at the time of deposit of the amount and the minor shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in their name after the date of their attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed @ ₹20,000/-.

February 26, 2016 **(SURINDER GUPTA)**
jk **JUDGE**

Whether to be referred to the Reporters? Yes/No

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