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

FAO No.1331 of 2004 (O&M)
Date of Decision: October 03, 2016.

Jasbir Kaur and others

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

VERSUS

Harjinder Singh and others

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

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Rajni Paul, Advocate for
Mr. Shailendra Jain, Advocate
for the appellant (s).

Mr. Vinod Chaudhri, Advocate with
Mr. Ravinder Arora, Advocate
for respondent No.3.

****

SURINDER GUPTA, J.

This is appeal by claimants-appellants seeking enhancement of compensation awarded vide award dated 08.12.2003 passed by Motor Accident Claims Tribunal, Sirsa (later referred to as ‘the Tribunal’) for death of Sukhwinder Singh (later referred to as 'the deceased'), husband of claimant-appellant no. 1 and father of claimants-appellants no. 2 to 4, in a motor vehicle accident, which took place on 04.06.2002 due to rash and negligent driving of Truck bearing registration No.RJ-31G/1791 (later referred to as ‘the offending vehicle’).

2. As the only issue involved in this appeal relates to seeking enhancement of compensation, detailed facts of the case are being skipped

for the sake of brevity.

3. The Tribunal awarded compensation of ₹19,14,000/- to the claimants, which was computed as follows:-

(i)	Age of the deceased	48 years
(ii)	Employment	Branch Manager, Punjab & Sind Bank, Sirsa.
(iii)	Monthly salary	₹22,844.94p
(iv)	Deduction towards personal expenses	1/3rd.
(v)	Dependancy on applying multiplier of 10	15230X12X10=₹18,27,600
(vi)	Loss of consortium	₹5000
(vii)	Funeral and last rites expenses	₹5000
(viii)	Medical expenses	₹76000
	Total	₹19,13,600 rounded of ₹19,14,000/-

4. Learned counsel for the appellants has argued that the Tribunal while computing the compensation has applied multiplier of 10 while as per the norms settled in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121,*** the multiplier attracted in this case is 13. The deceased left behind wife, two sons and a daughter, as such, the deduction applicable towards personal expenses should be 1/4th instead of 1/3rd. The Tribunal allowed compensation towards loss of consortium @ ₹5,000/- and funeral and last rites expenses @ ₹5,000/-, which are on lower side and no compensation was allowed to the minor children of the deceased towards loss of love and affection care and guidance. Towards future prospects, the claimants are entitled to 30% increase in the salary of the deceased as per the law settled by the Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra).***

5. Learned counsel for respondent No.3 has argued that the

accident took place 14 years back and the Tribunal has awarded adequate, just and reasonable compensation keeping in view the price index prevailing at that time which call for no further enhancement. The Tribunal took the salary of the deceased as ₹22,844/- per month but did not make any deduction towards income tax. However, he has not disputed that the norms regarding the deduction towards personal expenses and the multiplier as settled by Hon'ble Supreme Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra).***

6. The salary of the deceased was ₹22,844/- and after adding 30% in this salary towards future prospects, it comes to ₹29,697/- per month i.e. ₹3,20,364/- per annum. The Tribunal made no deduction towards income tax applicable at that point of time. The income tax slab in the financial year 2002-03 (Assessment Year 2003-04) was as follows:-

"Income Slab (Rs.)	Tax Rate
0 – 50,000	0%
50,001 – 60,000	10%
60,001 – 1,50,000	20%
1,50,001 and above	30%

Surcharge: 5% for the gross income exceeding Rs.60,000"

7. After making deduction towards income tax, the balance salary of the deceased works out as follows:-

(i)	Total annual income/salary	: ₹3,20,364/-
(ii)	Income tax on annual income	: ₹73,500/-
(iii)	Net income	: ₹2,46,864/-

8. As dependants on the deceased were four in number, 1/4th of his income is to be deducted towards his personal expenses. Deceased was 48

years of age at the time of his death, as such, in view of the observations in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)***, multiplier attracted in this case is 13. The claimants are also entitled to compensation towards loss of consortium, loss of love and affection, care and guidance for the children of the deceased and funeral expenses. Keeping in view the price index prevailing in the year 2002, the claimants are entitled for ₹60,000/- for loss of consortium for the wife; ₹60,000/- for loss of love and affection, care and guidance for children of the deceased and ₹10,000/- for funeral and last rites expenses.

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

Sl.No.	*Heads*	*Calculation*
(i)	Annual Salary after adding 30% towards future prospects and deduction towards income tax	₹246864
(ii)	1/4th of (i) deducted as personal expenses of the deceased	(₹246864-₹61716)= ₹185148
(iii)	Compensation after multiplier of 13 is applied	(₹185148X13)= ₹2406924
(iv)	Loss of consortium	₹60000
(v)	Loss of care and guidance for minor children	₹60000
(vi)	Funeral and transportation expenses	₹10000
Total		₹2536924 rounded of ₹25,37,000/-.

10. The appeal has merits and is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹19,14,000/- to ₹25,37,000/- for the death of Sukhwinder Singh. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the petition till actual realization. The amount of enhanced compensation shall be apportioned

between the claimants as follows:-

(i) Appellant No.1-wife of the deceased : 55%

(ii) Appellants No.2 to 4-children of the deceased : 15% each

11. Respondent No.3-insurance company will deposit the share of appellants-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 ₹10,000/-.

(SURINDER GUPTA)
JUDGE

October 03, 2016.
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No