

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2208 of 2002 (O&M)
Date of Decision : 24.08.2016

Smt. Nirmala Devi and others

....Appellants

Versus

Madan Lal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Parminder Kaur, Advocate
Amicus Curiae for appellants
with Mr. Sameer Rathaur, Advocate.

Mr. R.N. Singal, Advocate
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, Ambala (later referred to as 'the Tribunal) for death of Ashok Kumar (later referred to as 'the deceased') husband of claimant-appellant no. 1, father of claimant-appellant no. 2 and son of claimants-appellants no. 3 and 4 on 13.11.1999, in a motor vehicle accident with four-wheeler bearing No. HR-47-1314 (later referred to as 'the offending vehicle').

2. Case of claimants, in brief, is that on 13.11.1999, the deceased alongwith his son Anuj @ Raju, wife Nirmala Devi and sister Anjali was going from village Kambassi to village Chharuni Jattan in a three-wheeler, which was hit by the offending vehicle resulting in injuries to all the occupants of three-wheeler. Two female occupants of three-wheeler died at the spot while the deceased and his sister Anjali suffered serious injuries and were rushed to hospital but died on the way. Anuj and Nirmala Devi

also suffered injuries and were shifted to Civil Hospital, Shahbad from where they were referred to PGI, Chandigarh.

3. The Tribunal allowed compensation of ₹8,63,132/- to claimants, which was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Ashok Kumar
(ii)	Age of the deceased at the time of accident	35 years 7 months 7 days
(iii)	Employment	Naik in Indian Army with 540 FRI
(iv)	Salary of the deceased	₹6668 per month
(v)	1/3 rd of (iii) deducted towards personal expenses	(₹6668-₹2222)= ₹4446 per month
(vi)	Amount of dependency after applying multiplier of 16	(₹4446X12X16)= ₹853632
(vii)	Loss of consortium for the wife	₹5000
(viii)	Loss of Estate for the parents	₹2500
(ix)	Funeral expenses	₹2000
<i>Total</i>		₹863132

4. Ms. Parminder Kaur, Advocate, who was appointed as amicus curiae to assist this Court, has argued that as per observations of Apex Court in **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, claimants are entitled to 50% addition in income of the deceased towards future prospects. The Tribunal has wrongly applied deduction of 1/3rd towards personal expenses of the deceased despite the fact that he was having four dependents including his father. Amount of compensation allowed towards loss of estate, funeral expenses and loss of consortium is on lower side and should be enhanced to

₹1 lac under each head and similar amount may also be allowed to son of the deceased towards loss of love and affection care and guidance.

5. Learned counsel for respondent no. 3 has argued that it is nowhere the case of claimants that father of the deceased was dependent on the deceased, as such, number of dependents remains three and the Tribunal has rightly deducted 1/3rd of income of the deceased towards his personal expenses. The Tribunal has also allowed compensation towards loss of estate, funeral expenses and loss of consortium keeping in view the price index prevailing in the year 1999, when the accident took place, as such, compensation under these heads do not call for any enhancement.

6. The deceased was a permanent employee and was posted as Naik with Indian Army. As per observations of Apex Court in ***Sarla Verma's case (supra)***, claimants are entitled to 50% addition in income of the deceased towards future prospects. The Tribunal has allowed very meagre amount of compensation towards loss of consortium for wife, loss of estate for parents and funeral expenses and the same is enhanced to ₹50,000/- each towards loss of consortium and loss of estate and ₹10,000/- towards funeral expenses. Son of the deceased is also entitled to compensation of ₹50,000/- towards loss of love and affection care and guidance.

7. I find no reason to interfere with deduction of 1/3rd from income of the deceased as applied by the Tribunal towards his personal expenses as learned amicus curiae could not point out that father of the deceased was also dependent on him.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased as assessed by the Tribunal	₹6668 per month
(ii)	50% of (i) above to be added as future prospects	(₹6668+₹3334)= ₹10002 per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	₹10002 - ₹3334) = ₹6668 per month
(iv)	Compensation after multiplier of 16 is applied	(₹6668X12X16) = ₹1280256
(v)	Loss of consortium for the wife	₹50000
(vi)	Loss of love and affection care and guidance for the son	₹50000
(vii)	Loss of Estate, love and affection for parents	₹50000
(viii)	Funeral expenses	₹10000
<i>Total</i>		₹1440256 (rounded off to ₹1440300)

9. 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 Ashok Kumar is enhanced from ₹8,63,132/- to ₹14,40,300/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the claim petitions till actual realization. Amount of compensation shall be shared by claimants-appellants as follows:-

- | | | | |
|-------|-----------------------|---|-----|
| (i) | Claimant no. 1-wife | = | 50% |
| (ii) | Claimants no. 2-son | = | 20% |
| (iii) | Claimant no.3-mother | = | 20% |
| (iv) | Claimant no. 4-father | = | 10% |

10. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit share of claimants-appellants in their bank

accounts or pay the same through demand drafts.

11. This is appeal of 2002. In case of demise of either of claimant-appellant, amount of his share of compensation will be equally shared by surviving claimants.

August 24, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No