IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1373 of 2005
Date of Decision : 11.05.2016

Rani and others .....Appellants

Versus

Pawan Kumar and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Inderjit Sharma, Advocate
for the appellants.

Mr. Manmohan Singh, Advocate
for Mr. Suman Jain, Advocate
for respondent no. 3.

Surinder Gupta, J.

This is appeal against award dated 07.01.2005 passed by Motor Accident Claims Tribunal, Sonepat (later referred to as 'the Tribunal') whereby compensation of ₹3,09,268/- was allowed for death of Jai Bhagwan (later referred to as 'the deceased') in a motor vehicle accident with vehicle bearing registration no. HR-69-1667 (Tata-709) (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal is enhancement of compensation sought by appellants, detailed facts of the case are being skipped for the sake of brevity.

3. Case of claimants, in brief, is that on 26.04.2004, the deceased aged 28 years, was going on his bicycle from his barber shop to his village and was hit by the offending vehicle while he was crossing G.T. road. The Tribunal assessed income of the deceased as ₹2200/- per month and compensation of ₹3,09,268/- awarded to claimants was computed as follows:-

Sr. No.	Heads	Calculation
(i)	Income of the deceased Jai Bhagwan	₹2200 per month
(ii)	1/3rd of (i) deducted towards personal expenses of the deceased	₹2200-₹733= ₹1467 per month
(iii)	Amount of dependency after multiplier of 17 is applied	(₹1467x12x17)= ₹299268
(iv)	Funeral expenses	₹2500
(v)	Compensation for loss of estate	₹2500
(vi)	Loss of consortium	₹5000
	Total	₹3,09,268

4. Learned counsel for the appellants has argued that the deceased was running a barber shop. The Tribunal has assessed his income as ₹2200/- per month which is on lower side. Even an unskilled labourer could earn more than this amount. Even if, the deceased be taken as a skilled worker his income is to be equated with a skilled worker as per price index prevailing in the year 2004.

5. In order to prove profession and income of the deceased, claimants have examined PW-1 Tejinder, who has produced photographs of shop of the deceased. PW-2 Rohtash has stated that he was working as employee on the shop of deceased, which was taken by him on rent @ ₹1500/- per month. The deceased had been paying him ₹3000/- per month. The deceased used to earn ₹7000/- to ₹8000/- per month after deducting all the expenses including his salary. Claimant Rani, wife of the deceased, appeared as PW-3 and has also stated that the deceased was earning around ₹7000/- to ₹8000/- per month from his barber shop. PW-4 Parveen Kumar has stated that his shop is

situated at Murthal *chowk*, G.T. road, Sonepat. The deceased was running a barber shop under the name and style of Kataria Hair Dresser in the shop adjoining his shop and was earning ₹10,000/- per month. PW-5 Hari Om has stated that he is landlord of shop let out to the deceased for which he was receiving ₹1500/- per month as rent.

6. Learned counsel for the appellants has further argued that claimants are also entitled to addition in income of the deceased towards future prospects as per observations of the Apex Court in case of ***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***. Amount of compensation awarded by the Tribunal towards loss of consortium, loss of estate and funeral expenses is also on lower side. Claimants no. 2 and 3, who are minor children of the deceased, are also entitled to compensation for the loss of love and affection care and guidance. He has also argued that the Tribunal has wrongly applied deduction of 1/3rd of income of the deceased towards personal expenses while keeping in view that he had four dependents, deduction as per observations of the Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, which could be applied to this case is 1/4th instead of 1/3rd.

7. Learned counsel for the respondent has argued that the Tribunal has allowed compensation of ₹3,09,268/- keeping in view financial status of the deceased, dependency of claimants on his income and price index prevailing at that time. The

compensation allowed by the Tribunal including the compensation towards funeral expenses, loss of estate and loss of consortium is just and reasonable and call for no enhancement.

8. The concept of 'just and reasonable' compensation has seen various interpretations during the last two decades. Apex Court has rationalized norms regarding the multiplier, future prospects and the compensation to be allowed under the conventional heads in case of death in a motor vehicle accident in cases of ***Sarla Verma (supra)***, ***Rajesh (supra)***, ***Munna Lal Jain (supra)*** and ***Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476***. The Tribunal has to assess just and reasonable compensation keeping in view the facts of each case. In this case, the deceased was a barber. He was carrying on his business in a tenanted shop. PW-2 Rohtash has stated that he was employee under the deceased at his shop. Though, quantum of rent which the deceased was paying and the income which Rohtash was getting as salary from the deceased may not be believed as stated by witnesses i.e. PW-2 Rohtash and PW-5 Hari Om yet one fact is duly proved that the deceased being a barber falls in the category of skilled worker and his income is to be assessed accordingly. Income of the deceased assessed by the Tribunal is ₹2200/- per month. Keeping in view the fact that he was paying ₹1500/- per month as rent, had an employee on his shop and also bearing other running expenses of a barber shop, income of deceased is required to be reassessed and the same is taken as ₹3500/- per month.

9. As per observations in cases of ***Rajesh (supra)*** and

Munna Lal Jain (supra), 50% addition in income of the deceased is made towards future prospects. As the deceased has left behind four claimants, deduction towards his personal expenses as per norms laid down in the case of ***Sarla Verma (supra)*** is 1/4th. Claimants no. 2 and 3, who are minor children of the deceased, are also entitled to compensation for the loss of love and affection care and guidance, which is quantified as ₹75,000/-. The compensation allowed by the Tribunal towards loss of consortium is also on lower side and is enhanced to ₹75,000/- and amount of compensation allowed by the Tribunal for loss of estate is also enhanced to ₹75000/- in view of the observations of the Apex Court in case of ***Vimal Kanwar (supra)***. The quantum of compensation on above conventional heads has been allowed, keeping the fact in view that in case of ***Rajesh (supra)*** accident had taken place in the year 2007, while in this case it is in the year 2004. Price index, prevailing at a relevant time plays vital role while assessing quantum of compensation on conventional and other heads in such cases. Funeral expenses of ₹2500/- as allowed by the Tribunal is also enhanced to ₹15000/-.

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

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased Jai Bhagwan	₹3500 per month
(ii)	50% of (i) above to be added as future prospects	₹3500+₹1750= ₹5250 per month
(iii)	1/4th of (ii) deducted as personal expenses of the deceased	₹5250-₹1312 = ₹3938 per month
(iv)	Compensation after multiplier of 17 is applied	(₹3938X12X17) = ₹803352

(v)	Loss of consortium for claimant no. 1-wife	₹75000
(vi)	Loss of love and affection care and guidance for claimants no. 2 and 3	₹75000
(vii)	Loss of estate, love and affection for claimant no. 4	₹75000
(vii)	Funeral & transport expenses	₹15000
	Total	₹1043352

11. As a sequel of my above discussion, the appeal is accepted. Award of the Tribunal is modified and compensation allowed to claimants is enhanced from ₹3,09,268/- to ₹10,43,352/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants no. 1 and 4 in their bank accounts or pay the same through demand drafts. The share of claimants-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 deposits till the period they attain majority. It is, however, made clear that the bank may take the documents regarding age of the minors as required at the time of deposit of the amount and the minors 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. Claimant no. 1, being mother and natural guardian of minor

claimants shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up. Counsel fee is assessed at ₹ 20,000/-.

May 11, 2016 **(SURINDER GUPTA)**
jk **JUDGE**