

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3939 of 2007 (O&M)
Date of Decision : 28.09.2016

Asgri and othersAppellants

Versus

Om Parkash and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sanjay Jain, Advocate
for the appellants.

Mr. Kuldip Sanwal, Advocate
for respondent no. 2.

Mr. Sanjeev Pabbi, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (later referred to as ‘the Tribunal) for death of Som Nath (later referred to as ‘the deceased’), husband of claimant-appellant no. 1 and father of claimants-appellants no. 2 and 3, on 15.09.2004, in a motor vehicle accident with tanker bearing No. HP-12-8712 (later referred to as ‘the offending vehicle’).

2. As claimants are seeking enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal allowed compensation of ₹8,65,680/- to claimants, which was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Som Nath
(ii)	Age of the deceased at the time of accident	50 years

(iii)	Income of the deceased	₹9168 per month
(iv)	Annual dependency of claimants on income of the deceased @ ₹6000/- per month	(₹6000x12)= ₹72000 per annum
(v)	Amount of dependency after applying multiplier of 11	(₹72000X11)= ₹792000
(vi)	Medical bills	₹60182
(vii)	Charges for hospitalization for 27 days @ 500/- per day	₹13500
Total		₹865682

4. Learned counsel for appellants has argued that as per norms settled in case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, multiplier attracted to this case for computing amount of dependency is 13 while the Tribunal has wrongly applied the same as 11. The Tribunal has not awarded any compensation for the loss of consortium to wife of the deceased and towards funeral expenses.

5. Learned counsel for respondent no. 3-Insurance Company has argued that date of birth of the deceased was proved on file as 14.01.1954 and on the date of death i.e. 28.02.2005, he was 51 years of age, as such, multiplier is to be taken as applicable to the victim in the age group of 51 to 55 years and the Tribunal has rightly applied multiplier of 11. The accident had taken place in the year 2004 and compensation awarded by the Tribunal is just and reasonable keeping in view the price index prevailing at that time.

6. On perusal of award and record of the Tribunal, it transpires that after accident the deceased remained admitted in hospital at Dera Bassi and PGIMER, Chandigarh for different intervals from 15.09.2004 to 28.02.2005 and ultimately died in hospital at Dera Bassi on 28.02.2005. He was more than 51 years of age on that day and considering the date of death of the

deceased, the multiplier applicable to this case is 11.

7. As per observations of Apex Court in case of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54**, wife of the deceased is entitled to compensation towards loss of consortium, which keeping in view the fact that accident had taken place in the year 2004, is allowed as ₹75,000/-. Claimants are awarded compensation of ₹15,000/- towards funeral expenses.

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)	Name of the deceased	Som Nath
(ii)	Age of the deceased at the time of accident	51 years
(iii)	Income of the deceased as assessed by the Tribunal	₹9168 per month
(iv)	Annual dependency of claimants on income of the deceased @ ₹6000/- per month as assessed by the Tribunal	(₹6000x12)= ₹72000 per annum
(v)	Amount of dependency after applying multiplier of 11	(₹72000X11)= ₹792000
(vi)	Medical bills as assessed by the Tribunal	₹60182
(vii)	Charges for hospitalization for 27 days @ 500/- per day as allowed by the Tribunal	₹13500
(viii)	Loss of consortium to wife of the deceased	₹75000
(iv)	Funeral expenses	₹15000
<i>Total</i>		₹955682 (rounded off to ₹956000)

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 Som Nath is enhanced from

₹8,65,682/- to ₹9,56,000/-. The enhanced amount of compensation will carry

interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Amount of compensation shall be shared by claimants-appellants as follows:-

- (i) Claimant no. 1-wife = 80%
- (ii) Claimants no. 2 and 3 = 10% each

10. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank accounts or pay the same through demand drafts.

11. In the event of demise of any of the claimants before or after passing of award, compensation of his share shall be equally distributed amongst surviving claimants.

12. As awarded by the Tribunal, insurer of the offending vehicle i.e. respondent no. 3 shall be entitled to recover amount of compensation from owner of the offending vehicle. However, right of Insurance Company to recover the amount of compensation from owner of the offending vehicle shall be subject to the decision of FAO No. 7340 of 2011.

September 28, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No