IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3966 of 2006 (O&M)
Date of Decision : 13.05.2016

Santosh Devi and another .....Appellants

Versus

Phool Kumar and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. K.S. Dhanora, Advocate
for the appellants.

Mr. Saurabh Dalal, Advocate
for respondents no. 1 and 2.

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

Surinder Gupta, J.

This is appeal by claimants Santosh Devi and minor Aarti against award dated 11.02.2006 passed by Motor Accident Claims Tribunal, Hisar (later referred to as 'the Tribunal') allowing compensation of ₹4,17,500/- for death of Mohinder (later referred to as 'the deceased'), husband of claimant-appellant no. -1-Santosh Devi, father of claimant-appellant no. 2-Aarti and son of claimant-respondent no. 4-Anchal, in accident with motor vehicle bearing registration No. GJ-1BP-6221 (later referred to as 'the offending vehicle').

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

3. As per claimants, the deceased was 28 years of age and was earning ₹4000/- per month as salary as employee in Kohli Auto Mobile Pvt. Ltd., G.T. road, Sampla, Rohtak.

4. The Tribunal relied on salary certificate of the deceased and assessed his monthly income as ₹2500/- per month from which deduction of 1/4th was made towards his personal expenses and by applying multiplier of 18 amount of dependency was worked out as ₹4,05,000/- to which ₹5000/- each was added towards funeral expenses and loss of consortium and ₹2500/- towards loss of estate while awarding total compensation of ₹4,17,500/-.

5. Learned counsel for the appellants has argued that the Tribunal has not awarded any compensation towards future prospects. The compensation allowed by Tribunal towards loss of consortium, loss of estate and funeral expenses is on lower side.

6. In case of ***Rajesh and others vs. Rajbir Singh and others*, 2013 (9) SCC 54**, the compensation for loss of love and affection care and guidance to the minor children was awarded as ₹1 lac while in case of ***Smt. Neeta and others* vs. *The Divisional Manager, MSRTC, Kolhaur*, 2015 (3) SCC 590**, compensation for loss of love and affection for the widow and mother of the deceased was allowed as ₹1 lac each.

7. While assessing income of the deceased, Tribunal has relied on his salary certificate and statement of official of M/s Kohli Auto Mobile Pvt. Ltd., where he was employed. In the salary statement (Ex. P-8), salary of the deceased was shown as ₹2500/- per month. As per observations in case of ***Rajesh (supra)*** and ***Munna Lal Jain and others* vs. *Vipin Kumar Sharma and others*, 2015 (3) RCR (Civil) 447**, claimants are also entitled to 50% addition in income of the deceased towards

his future prospects.

8. As per norms laid down in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, multiplier which could be applied in this case while calculating amount of dependency is 17 but the Tribunal has wrongly applied the multiplier of 18 and deduction towards personal expenses of the deceased is 1/3rd instead of 1/4th as applied by the Tribunal. In case of ***Rajesh (supra)***, the accident had taken place in the year 2007 while in case of ***Smt. Neeta (supra)***, the compensation was awarded pertaining to the accident that took place in the year 2011. In this case, the date of accident is 25.08.2001. Keeping this fact in view and the price index prevailing in the year 2001, I am of the opinion that compensation allowed by the Tribunal as ₹5000/- for loss of consortium, ₹2500/- for loss of estate and ₹5000/- for funeral expenses is on lower side. The compensation for loss of consortium is awarded as wife had to spend her remaining life without her spouse; the mother had also lost her son and minor child her father. The price index of the year 2001 was certainly lower than the price index of the year 2007. Taking all these facts into account, claimants are allowed compensation of ₹50,000/- each towards loss of consortium for the wife, loss of love and affection care and guidance for minor child and for loss of estate, love and affection for the mother. Funeral expenses awarded by the tribunal is also enhanced to ₹15,000/-.

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

Sr. No.	***Heads***	***Calculation***
(i)	Age of Mohinder (deceased)	28 years
(ii)	Income of the deceased	₹2500 per month
(iii)	50% of (ii) above to be added as future prospects	₹2500+₹1250= ₹3750 per month
(iv)	1/3rd of (iii) deducted as personal expenses of the deceased	₹3750-₹1250 = ₹2500 per month
(v)	Compensation after multiplier of 17 is applied	(₹2500X12X17) = ₹510000
(vi)	Loss of consortium for claimant no. 1-wife	₹50000
(vii)	Loss of love and affection care and guidance for claimant no. 2	₹50000
(viii)	Loss of estate, love and affection for claimant no. 3-mother	₹50000
(ix)	Funeral expenses	₹15000
	Total	₹675000

10. 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 ₹4,17,500/- to ₹6,75,000/-. 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 enhanced compensation shall be shared by claimants as follows:-

(i) Wife : 40%

(ii) Minor daughter : 40%

(iii) Mother : 20%

11. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants no. 1 and 3 in their bank accounts or pay the same through demand drafts. The share of claimant-appellant No. 2, who as per her age given at the time of filing of the petition, is 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 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 her name after the date of her 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 claimant 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 13, 2016 **(SURINDER GUPTA)**
jk **JUDGE**