IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.1096 of 2010 (O&M)
Date of Decision: January 12, 2016.

Salma and others

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

VERSUS

Dholu Ram and others

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

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Kotla, Advocate
for the appellant (s).

Respondents No.1 and 2 ex parte.

Mr. Binat Sharma, Advocate for
Mr. A.S. Sidhu, Advocate
for respondent No.3.

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SURINDER GUPTA, J.

This appeal has been filed by appellants-claimants Salma and others seeking enhancement of compensation for the death of Nizamudin alias Dharambir (later referred to as the deceased) in a motor accident, which took place on 02.10.2008 with bus bearing registration No.RJ-30PA-0217 (later referred to as the offending vehicle).

2. Motor Accident Claims Tribunal, Hisar (later referred to as the Tribunal) vide award dated 22.09.2009 awarded a compensation of ₹10,84,086/- and recorded finding that the accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1.

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3. Detailed facts of the case are not being discussed as the claimants have sought enhancement of compensation and the respondents have not challenged the award passed by the Tribunal.

4. The deceased was 22 years of age at the time of his death and was a driver of auto-rickshaw. The Tribunal has taken his income as ₹6,000/- per month as a skilled labourer.

5. Learned counsel for the appellants has not challenged the award so far as it relates to ascertaining the income of the deceased and the multiplier applied. Learned counsel for the appellants has argued that the Tribunal has not added 50% in the income of the deceased towards future prospects. He has relied on ***Rajesh and others Vs. Rajbir and others (2013) 9 SCC 54*** and ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3)RCR (Civil) 447***. He has further argued that the prices of goods of daily need have increased many fold during the last decade and this trend will continue in future. While awarding just and fair compensation, this fact is required to be kept in mind. The Tribunal has not allowed any compensation towards loss of consortium, loss of love and affection, care and guidance for minor children of the deceased. It has allowed only ₹5,000/- towards loss of estate and ₹5,000/- towards funeral expenses, which require upward revision.

6. Learned counsel for respondent No.3-insurance company has argued that the Tribunal has to award just and fair compensation for the death in a motor accident. In this case, the Tribunal has rightly assessed monthly income of the deceased as ₹6,000/- and applied multiplier of 18 while calculating the amount of compensation, which call for no interference

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in this appeal.

7. In case of ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others (supra),*** Hon'ble Apex Court has followed the view taken in case of ***Rajesh and others Vs. Rajbir and others (supra)*** regarding the addition in the income in accordance with the age of the deceased towards future prospects.

8. The concept of future prospects envisages chances or opportunities for success and further progress in life which is a normal course of event for every human being involved in any avocation. Even if, keeping in view his ability, capacity etc., one may not be in a position to rise in life, there is another aspect that justifies the grant of addition in the income of the deceased, which is the '*inflationary trend*' in which we all are living. For example, I take instance of a tailor. It is a matter of common knowledge that stitching charges have increased manifold during last two decades due to increase in expenses of material/labour charges/margin of persons in this profession, with consequent increase in their income. This is because of high increase in the cost of living. The dependents of a deceased in accident have also to face the same situation. The amount of compensation is required to be just and reasonable keeping the inflationary trend in view, where the prices of the basic amenities of life are likely to increase further.

9. As per the observations in case of ***Rajesh and others Vs. Rajbir and others (supra)*** and ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others (supra),*** the claimants are also entitled to ₹1 lac each under the conventional heads i.e. loss of estate, loss of consortium, loss of

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love and affection care and guidance for minor children of the deceased and ₹25,000/- towards funeral expenses.

10. The submission of learned counsel for respondent No.3-insurance company that the Tribunal has awarded just and reasonable compensation to the claimants is without merit as the claimants have not been awarded compensation under the conventional heads i.e. loss of consortium, loss of love and affection care and guidance for minor children of the deceased and the Tribunal has awarded lesser amount of compensation towards loss of estate and funeral expenses.

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

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased (as assessed by the Tribunal)	₹6000 per month
(ii)	50% of (i) above to be added as future prospects	(₹6000+ ₹3000)= (₹9000 per month)
(iii)	1/4th of (ii) deducted as personal expenses of the deceased	(₹9000-₹2250)= ₹6750 per month
(iv)	Compensation after multiplier of 18 as applied by the Tribunal	(₹6750X12X18)= ₹14,58,000
(v)	For loss of the estate	₹100000
(vi)	For loss of consortium	₹100000
(vii)	For loss of love and affection,care and guidance for minor children of the deceased	₹100000
(viii)	Funeral expenses	₹25000
Total		₹17,83,000

11. The appeal is accepted. The award of the Tribunal is modified and the compensation allowed to the appellants is enhanced from ₹10,84,086/- to ₹17,83,000/- for death of Nizamudin alias Dharambir. The enhanced amount of compensation will carry interest 7.5% per annum from

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the date of filing of the petition till actual realization. The amount of enhanced compensation shall be shared by the claimants as per award of the Tribunal. Respondent No.3-insurance company will deposit the share of claimants in their bank accounts or pay the same through demand drafts. The share of minor 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 nationlized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the 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 names after the date of attaining majority. The above direction has been issued to save minor 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. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed at ₹20,000/-.

(SURINDER GUPTA)
JUDGE

January 12, 2016.
Sachin M.

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