IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2553 of 2012 (O&M)
Date of Decision : 28.01.2016

Baljit Singh and others ....Appellants

Versus

Avtar Singh and another ....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Ekta Thakur, Advocate
for the appellants.

Surinder Gupta, J.

This is appeal filed by Baljit Singh and others (claimants) seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Chandigarh (later referred to as 'the Tribunal') for the death of Rana Singh in a motor vehicle accident with PRTC Bus No. PB-11-AB-7340 (later referred to as 'the offending vehicle'). Claimants are children of deceased-Rana Singh.

2. Case of claimants, in brief, is that on 18.06.2009, deceased was going towards Zirakpur from Banur on his motorcycle bearing registration No. HR-99-CB(T)-0850. At about 02.30 p.m., he reached near village Bassi Ishe Khan, Banur when the offending vehicle came from the side of Zirakpur. It was being driven by respondent no. 1-Avtar Singh in a rash and negligent manner. While overtaking, he hit the motorcycle of deceased who fell on the road and suffered multiple grievous injuries on vital organs resulting in his death at the spot. The matter was reported to the police vide FIR No. 66 dated 18.06.2009, registered at Police Station Banur, District Patiala. The deceased was 35 years of age

and was self-employed doing dairy and agricultural farming, thereby earning ₹6000/- per month.

3. Respondents contested the claim petition *inter alia* pleading that deceased was driving the motorcycle in a rash and negligent manner under the influence of liquor. He could not control his motorcycle while overtaking another vehicle as a result of which his motorcycle skidded resulting in injuries to the deceased. It was denied that any accident had taken place with the offending vehicle.

4. On appreciation of evidence, the Tribunal recorded the finding that the accident had taken place due to rash and negligent driving of the offending vehicle by respondent no. 1.

5. The Tribunal assessed income of the deceased as ₹4000/- per month and computed the amount of compensation as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased Rana Singh	₹4000 per month
(ii)	1/3rd of (i) above was deducted towards personal expenses	₹4000 - ₹1333 = ₹2667 per month
(iii)	Compensation after applying multiplier of 16	(₹2667X12X16) = ₹512064
(v)	Transportation and last rites	₹10000
	Total	₹522064

6. Learned counsel for the appellants has argued that the deceased was doing dairy and agricultural farming thereby earning ₹6000/- per month. He was having four dependants at the time of his death. Wife of the deceased had died after filing of the claim petition, as such, the Tribunal has wrongly deducted 1/3rd of his

income towards personal expenses instead of 1/4th. The deceased was owning land i.e. ½ share in 14 *kanals* 16 *marlas* and 154.2/620 share in land measuring 30 *kanals* 16 *marlas* as per *jamabandi* placed on record as Ex. P-4 and Ex. P-5. Even a skilled worker was earning more than ₹200 per day in the year 2009, as such, income of the deceased taken by the Tribunal as ₹4000/- is on lower side and should have been taken as ₹5000/- per month. The Tribunal has also not allowed any compensation towards loss of love and affection for the minor children and funeral expenses allowed as ₹10,000/- are also on lower side.

7. On perusal of evidence on record and statement of Baljit Singh as PW-2, I find that the deceased was owning some agricultural land. The agriculturists are usually very laborious and do not depend solely on the agricultural income. They also carry on some other activities like selling of milk, poultry, breeding of birds or other agricultural avocations to boost their family income. The Tribunal has taken income of the deceased as that of a casual labourer. In the year 2005 even a casual labourer could earn more than ₹4000/- per month. Taking the status of deceased as better than casual labourer his monthly income could be safely assessed as ₹5000/- per month. As per observations in the cases of ***Munna Lal Jain and others* vs. *Vipin Kumar Sharma and others*, 2015 (3) RCR (Civil) 447** and ***Rajesh and others vs. Rajbir Singh and others*, 2013 (9) SCC 54**, 50% of the income of deceased is required to be added towards his future prospects. The claimants who were minor children at the time of accident are also

entitled to compensation towards loss of love and affection care and guidance besides funeral expenses to the tune of ₹25,000/-. The deceased was having four dependants at the time of his death i.e. 3 children and wife Gurmeet Kaur. Wife of the deceased died during pendency of claim petition. As per law laid down in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, the deduction towards personal expenses of the deceased applicable to the present case is $1/4^{th}$ instead of $1/3^{rd}$.

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

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased Rana Singh	₹5000 per month
(ii)	50% of (i) above to be added as future prospects	₹5000 + ₹2500 = ₹7500 per month
(iii)	$1/4^{th}$ of (ii) deducted as personal expenses of the deceased	₹7500 - ₹1875 = ₹5625 per month
(iv)	Compensation after multiplier of 16 is applied	(₹5625X12X16) = ₹1080000
(v)	Loss of love and affection	₹100000
(vi)	Funeral expenses	₹25000
Total		**₹1205000**

9. In view of the above, instant appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Rana Singh is enhanced from ₹5,22,064/- to ₹12,05,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the claim petitions till actual realization. The amount of enhanced compensation shall be shared equally by

the claimants. Respondent No. 2 being owner of the offending vehicle will deposit the share of claimants in their bank accounts or pay the same through demand drafts. The share of minor Manjeet Kaur-appellant No. 3, 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 deposit till the period she attains majority. It is, however, made clear that the bank may take the documents regarding the 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 attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually gives 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/-.

January 28, 2016 **(SURINDER GUPTA)**
jk **JUDGE**

Whether to be referred to the Reporters? *Yes/No*