

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**FAO No. 7272 of 2011**  
**Date of Decision : 04.08.2016**

Isan and others .....Appellants

Versus

Iqbal and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Ashish Gupta, Advocate  
for the appellants.

Mr. Aditya Kochhar, Advocate  
for Mr. Ashwani Talwar, Advocate  
for respondent no. 3.

**Surinder Gupta, J.**

Claimants have filed appeal seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Nuh (later referred to as ‘the Tribunal’) for death of Arastoon (later referred to as ‘the deceased’) wife of claimant-appellant no. 1 and mother of claimants-appellants no. 2 to 7, who died on 09.05.2009 because of the injuries suffered by her on 05.05.2009 in a motor vehicle accident with motorcycle bearing registration no. 27-A-1892.

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

3. The Tribunal allowed compensation of ₹3,70,000/- to claimants, which was computed as follows:-

| <i><b>Sr. No.</b></i> | <i><b>Heads</b></i> | <i><b>Calculation</b></i> |
|-----------------------|---------------------|---------------------------|
| (i)                   | Age of the deceased | Between 31 to 35 years    |

|              |                                                                         |                               |
|--------------|-------------------------------------------------------------------------|-------------------------------|
| (ii)         | Income of the deceased as house-wife                                    | ₹2500 per month               |
| (iii)        | 1/5 <sup>th</sup> of (ii) deducted as personal expenses of the deceased | (₹2500-₹500)= ₹2000 per month |
| (iv)         | Compensation after applying multiplier of 15 as per age of claimants    | (₹2000X12X15)= ₹360000        |
| (v)          | Funeral expenses                                                        | ₹10000                        |
| <b>Total</b> |                                                                         | <b>₹370000</b>                |

4. Learned counsel for appellants has argued that the deceased was doing labour and was earning ₹3500/- per month. Even if she be taken as housewife, the Tribunal has assessed loss to claimants for the services rendered by her to her family on a very lower side. As per terms laid down by Apex Court in **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, the multiplier applicable for the age group of 30 to 35 years is 16 while the Tribunal has applied the multiplier of 15. Moreover, the Tribunal has assessed loss of income to claimants for the services rendered by the deceased but has also made deduction from income of the deceased towards her personal expenses, whereas no such deduction could be made. No compensation was allowed for the loss of consortium, loss of love and affection for minor children and amount of ₹10,000/- awarded for funeral expenses is also on lower side.

5. Learned counsel for respondent no. 3 has not disputed the law laid down regarding the multiplier attracted to age group of 31 to 35 years as per observation in case of **Sarla Verma (supra)**. He has further argued that claimant no. 1 i.e. husband of the deceased is not entitled to any compensation for loss of consortium as there is probability that he may have gone for second marriage because the deceased had left behind six minor children to look after. The Tribunal has rightly assessed income of

the deceased after making valuation of services rendered by her keeping in view the price index prevailing at the time of accident, which calls for no further enhancement.

6. The accident in this case took place on 05.05.2009. The deceased had died in hospital on 09.05.2009. The Tribunal has not allowed any compensation for expenses on medical care, medicines and attendant. After the accident, deceased was first brought to General Hospital, Taoru from where she was brought to a hospital at Bhiwani and then to Sawai Man Singh Hospital, Jaipur, where she ultimately succumbed to injuries. While taking the patient from one place to another place, claimants have also suffered expenses on transportation.

7. The deceased was providing services to her husband and also to six children and the valuation of her services as assessed by the Tribunal calls for enhancement from ₹2500/- per month to ₹3000/- per month. As claimants have been deprived of services of the deceased forever, no deduction from this valuation could be made as deducted by the Tribunal. In view of observation of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54**, claimants are also entitled to compensation for loss of consortium and loss of love and affection care and guidance, which is quantified as ₹1 lac under each head. The compensation towards funeral expenses is also enhanced from ₹10,000/- to ₹25,000/-. Though, no evidence was brought regarding medical expenses but keeping in view the fact that deceased remained admitted in hospital for five days and was shifting from one hospital to other hospital, a lump sum of ₹50,000/- is awarded towards compensation for medical expenses, transportation charges and expenses of attendant. Argument of learned counsel for

respondent that appellant no. 1 may have gone for second marriage is without any basis or evidence on record, as such, discarded.

8. In view of my above discussion, amount of compensation awardable to claimants is reassessed as follows:-

| <b><i>Sr. No.</i></b> | <b><i>Heads</i></b>                                                             | <b><i>Calculation</i></b> |
|-----------------------|---------------------------------------------------------------------------------|---------------------------|
| (i)                   | Income of the deceased Arastoon                                                 | ₹3000 per month           |
| (ii)                  | Compensation after applying multiplier of 16                                    | (₹3000X12X16) = ₹576000   |
| (iv)                  | Compensation for medical expenses, transportation charges and attendant charges | ₹50000                    |
| (v)                   | Loss of consortium for appellant no. 1                                          | ₹100000                   |
| (vi)                  | Loss of love and affection for appellants no. 2 to 7.                           | ₹100000                   |
| (vii)                 | Funeral expenses                                                                | ₹25000                    |
| <b><i>Total</i></b>   |                                                                                 | <b>₹851000</b>            |

9. 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 ₹3,70,000/- to ₹8,51,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Appellants will equally share the enhanced amount of compensation. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank accounts or pay the same through demand drafts. The share of claimants-appellants No. 4 to 7, who are 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 minors as required at the time of deposit of the amount and they 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 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-Isan, being father and natural guardian of minor claimants shall be entitled to get interest on the share of minors deposited with bank, on monthly, quarterly, half yearly or annual basis, as per his convenience to meet expenses of their brought up. Counsel fee is assessed at ₹10,000/-.

**August 04, 2016**  
jk

**( SURINDER GUPTA)**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No