

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5052 of 2012 (O&M)
Date of Decision : 02.12.2016

Anita and others

....Appellants

Versus

Basau Ram and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

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

Mr. G.S. Ahluwalia, Advocate
for respondent no. 3.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jind (later referred to as 'the Tribunal') for death of Ranjeet @ Jeeta (later referred to as 'the deceased') in motor vehicle accident on 01.10.2011 with Maruti car bearing registration no. HR-16-J-4138 (later referred to as 'the offending vehicle').

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

3. The Tribunal allowed compensation of ₹4,70,800/- to claimants, which was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Ranjeet @ Jeeta
(ii)	Age of the deceased at the time of accident	30 years

(iii)	Income of the deceased	₹3600 per month
(iv)	Annual dependency of claimants on income of the deceased @ ₹3600/- per month	(₹3600x12)= ₹43200 per annum
(v)	1/3 rd of (iv) above deducted towards personal expenses	(₹43200-₹14400)= ₹28800
(vi)	Amount of dependency after applying multiplier of 16	(₹28800X16)= ₹460800
(vii)	Compensation towards transportation and last rites	₹10000
Total		₹470800

4. Learned counsel for appellants has argued that the Tribunal held age of the deceased as 22/23 years and a specific finding to this effect was recorded in para 15 of the award. However, while applying the multiplier, age of the deceased was inadvertently mentioned as 30 years and multiplier of 16 was applied instead of 18 applicable as per age of the deceased in view of the ratio of judgment in case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121.** He has further argued that the Tribunal has not made any addition in income of the deceased towards future prospects as per observations of Apex Court in case of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54.** No compensation was awarded towards loss of consortium for wife, towards loss of love and affection care and guidance for minor children and towards loss of estate for father of the deceased. A lump sum of ₹10,000/- awarded towards transportation, funeral expenses and loss of consortium is on lower side.

5. Learned counsel for respondent no. 3-Insurance Company has argued that the Tribunal allowed compensation keeping in view the price index prevailing at the time of accident. Age of the deceased is though mentioned as 22/23 years in para 15 but the same is described as 30 years in

para 18. There may be typographical mistake in para 15 while describing age of the deceased. The compensation awarded by the Tribunal is just and reasonable which calls for no further enhancement.

6. The accident was caused on 01.10.2011. It was alleged that the deceased was employed as supervisor in M/s Shyhook Poultry Layer Farm, Dhanana, District Bhiwani and was earning ₹8500/- as salary but in the absence of any evidence regarding educational qualification of the deceased and his employment, the Tribunal took his monthly income as ₹3600/- per month. I find no reason to interfere in the assessment of income of deceased by Tribunal. As per ratio of judgment in case of ***Rajesh (supra)***, claimants are entitled to addition to the extent of 50% in income of the deceased towards future prospects. They are also entitled to compensation of ₹1 lac towards loss of consortium for the wife and equal sum towards loss of love and affection for minor children of the deceased. Tek Ram father of the deceased is also entitled to compensation of ₹1 lac towards loss of estate as per observation of Apex Court in case of **Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476.** Claimants are also entitled to compensation of ₹25000/- towards funeral expenses and transportation expenses.

7. In claim petition age of the deceased is mentioned as 22 years. Postmortem report (Ex. P-2) also described age of the deceased as 22 years. Wife of the deceased Anita while appearing as PW-1 has stated his age as 22 years and her statement to this effect is unrebutted in cross-examination. PW-2 Rajesh Kumar has also described age of the deceased as 22 years. On the basis of this evidence, the Tribunal recorded a specific finding in para 15 of the award and age of the deceased was held as 22/23 years at the time

of accident. However, while applying multiplier age of the deceased was wrongly mentioned as 30 years in para 18. As per norms settled by Apex Court in *Sarla Verma's case (supra)*, multiplier of 18 is applicable to this case instead of 16 as applied by the Tribunal.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Age of the deceased	22/23 years
(ii)	Income of deceased	₹3600 per month
(iii)	50% of (ii) added towards future prospects	(₹3600+₹1800)= ₹5400 per month
(iv)	1/3rd of (iii) deducted as personal expenses of the deceased	(₹5400-₹1800)= ₹3600 per month
(v)	Amount of dependency after applying multiplier of 18.	(₹3600X12X18) = ₹777600 per annum
(vi)	Loss of consortium for wife	₹100000
(vii)	Loss of love and affection for minor children	₹100000
(viii)	Loss of estate for father	₹100000
(ix)	Funeral expenses	₹25000
<i>Total</i>		₹1102600

9. As a sequel of my discussion above, this appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Ranjeet @ Jeeta is enhanced from ₹4,70,800/- to ₹11,02,600/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the enhanced

amount of compensation in bank accounts of claimants no. 1 and 4 or pay the same to them through demand draft.

10. The share of claimants-appellants No. 2 and 3, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their name after the date of their attaining majority. The above direction has been issued to save claimants from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after minor claimant has attained age of majority. Claimant no. 1-Anita, being mother and natural guardian of minor claimants 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.

December 02, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No