IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5075 of 2012
Date of Decision : 27.04.2016

Mangal Singh and others .....Appellants

Versus

Paramjeet Singh and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.S. Sekhon, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for Mr. Ravinder Arora, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Rewari (later referred to as 'the Tribunal') for death of Sukhwinder Singh (deceased), son of claimants-appellants no. 1 and 2, husband of claimant-appellant no. 3 and father of claimants-appellants no. 4 and 5, in a motor vehicle accident with Trailer bearing registration No. PB-05-M-7613 (later referred to as 'the offending vehicle').

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

3. Case of claimants, in brief, is that on 06.03.2010 at about 12.30 p.m., Sukhwinder Singh (deceased) alongwith his son Anmol was going from village Lohgarh to Ferozepur in his Maruti Car bearing registration No. HR-24-D-4727, when it was

hit by respondent no. 1-driver of the offending vehicle, who was driving the same in a rash and negligent manner. The Tribunal took the deceased, a young boy, as a labourer and assessed his income as ₹3000/- per month. After deducting 1/4th of income of the deceased towards his personal expenses, multiplier of 15 was applied keeping in view his age, which was taken as 37 years, and amount of dependency was worked out to be ₹4,05,000/- to which ₹5000/- were added towards loss of estate, ₹5000/- towards funeral expenses and ₹10,000/- towards loss of consortium.

4. Learned counsel for the appellants has argued that income of the deceased taken by the Tribunal as ₹3000/- is on lower side. In the year, 2010 even a daily wager was earning not less than ₹200/- per day. The deceased was going in his car when he met with an accident, which shows that he was having a status better than a daily wager. Compensation allowed by the Tribunal towards loss of estate, funeral expenses and loss of consortium is also on lower side. The Tribunal has not allowed any compensation for the loss of love and affection care and guidance for minor children of the deceased.

5. Learned counsel for respondent no. 3-Insurance Company has argued that the Tribunal was required to allow just and reasonable compensation to the victim/dependants of the victim in a motor vehicle accident. The amount of compensation allowed in this case as ₹4,25,000/- is just and reasonable and calls for no further enhancement.

6. I agree with learned counsel for respondent no. 3-

Insurance Company to the extent that the Tribunal has to allow just and reasonable compensation to the victim or dependents of victim in motor vehicle accident case. The quantum of 'just and reasonable' compensation depends upon facts of each case. Apex Court in a catena of judgments has settled the law relating to norms required to be taken care while computing the quantum of compensation.

7. Accident in this case had taken place in the year 2010. The Tribunal took income of the deceased as ₹3000/- per month. As per case of claimants, the deceased was going in his Maruti Car at the time of accident and he was an agriculturist by profession. Though, no such evidence of his income has come on record, still income of the deceased assessed by the Tribunal is on lower side. Even in the year 2010, a daily wager was earning ₹200/- per day, as such, income of the deceased can be safely taken as ₹5000/- per month. The Apex Court in the cases of ***Rajesh and others vs. Rajbir Singh and others*, 2013 (9) SCC 54** and ***Munna Lal Jain and others* vs. *Vipin Kumar Sharma and others*, 2015 (3) RCR (Civil) 447** has allowed addition of 50% in income where the deceased in a motor vehicle accident is less than 40 years of age. Claimants are also entitled to addition in income of the deceased to this extent. For the loss of consortium, amount of compensation allowed by the Tribunal is quite meagre and calls for enhancement to ₹1 lac. Claimants-appellants no. 4 and 5, minor children of the deceased are also allowed compensation of ₹1 lac for the loss of love and affection care and guidance. Compensation of ₹5000/- allowed by the

Tribunal for funeral expenses is also enhanced to ₹25,000/-. As per observations of the Apex Court in case of ***Vimal Kanwar and others*** ***vs.*** ***Kishore Dan and others*, 2013 (7) SCC 476,** claimants-appellants no. 1 and 2 are also allowed compensation of ₹1 lac towards loss of estate, love and affection.

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

Sr. No.	***Heads***	***Calculation***
(i)	Income of the deceased Sukhwinder Singh	₹5000 per month
(ii)	50% of (i) above to be added as future prospects	₹5000+₹2500 = ₹7500 per month
(iii)	1/4th of (ii) deducted as personal expenses of the deceased	₹7500-₹1875 = ₹5625 per month
(iv)	Compensation after multiplier of 15 is applied	(₹5625X12X15) = ₹1012500
(v)	Loss of consortium for wife	₹100000
(vi)	Loss of estate, love and affection for parents	₹100000
(vii)	Loss of love and affection care and guidance for minor children	₹100000
(vii)	Funeral & transport expenses	₹25000
	Total	₹1337500

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 ₹4,25,000/- to ₹13,37,500/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. The amount of compensation will be disbursed to claimants as per ratio laid down by the Tribunal in the award. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants no. 1 to 3

in their bank accounts or pay the same through demand drafts. The share of claimants-appellants No. 4 and 5, who, as per their age given at the time of filing of the petition, are 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 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 name 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. Counsel fee is assessed at ₹ 20,000/-.

April 27, 2016 **(SURINDER GUPTA)**
jk **JUDGE**