

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2102 of 2013(O&M)
Date of Decision : 05.04.2016

Rakesh and others

.....Appellants

Versus

Rishi Pal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vinod K. Kanwal, Advocate
for Mr. Ashit Malik, Advocate
for the appellants.

Mr. Arun Sharma, Advocate
for Mr. T.K. Joshi, Advocate
for respondent no. 4-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Karnal (later referred to as 'the Tribunal') for death of Mehak Singh (deceased), husband of claimant-appellant no. 1 and father of claimants-appellants no. 2 to 4.

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

3. The accident took place on 21.03.2010, when the deceased, who was going on his tractor, was hit by Swaraj Mazda bearing registration No. HR-38-J-7598 (later referred to as 'the offending vehicle') coming from behind resulting in his death.

4. The Tribunal allowed compensation of ₹6,48,600/- by assessing income of the deceased as ₹4500/- per month. 1/4th of above income was deducted towards personal expenses of the

deceased and by applying multiplier of 16 amount of dependency was calculated as ₹6,33,600/- to which ₹10,000/- was added towards transport charges and ₹5000/- towards loss of consortium.

5. Referring to observations in 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**, learned counsel for claimants-appellants has argued that claimants are entitled to addition of 50% in income of the deceased towards future prospects. Amount of compensation allowed for loss of consortium is also on lower side, which call for enhancement to ₹1 lac. He has argued that the Tribunal has not allowed any compensation for the loss of love and affection, care and guidance for minor children and funeral expenses. They are also entitled to reasonable compensation on these accounts.

6. Learned counsel representing respondent no. 4- Insurance Company has argued that the Tribunal was required to allow just and reasonable amount of compensation for death of Mehak Singh in motor vehicle accident, which had taken place on 21.03.2010. The deceased was an agriculturist and keeping in view his age and income, the Tribunal has rightly allowed compensation as ₹6,48,600/-, which calls for no further enhancement.

7. I agree with learned counsel for 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.

8. As per observations in cases of **Rajesh (supra)** and **Munna Lal Jain (supra)**, claimants are entitled to addition of 50% in income of the deceased, who was 35 years of age, towards future prospects. Applying the norms of compensation awarded in the above referred cases, claimant no. 1-wife of the deceased is allowed compensation of ₹1 lac towards loss of consortium while children of the deceased i.e. claimants-appellants no. 2 to 4, are allowed compensation of ₹1 lac towards loss of love and affection, care and guidance. Besides this, claimants are also allowed compensation of ₹25,000/- towards funeral expenses and transportation charges.

9. 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 Mehak Singh as assessed by the Tribunal	₹4500 per month
(ii)	50% of (i) above to be added as future prospects	₹4500+₹2250 = ₹6750 per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	₹6750-₹1687 = ₹5063 per month
(iv)	Compensation after multiplier of 16 is applied (as already applied by the Tribunal)	(₹5063X12X16) = ₹972096
(v)	Loss of consortium	₹100000
(vi)	Loss of love and affection, care and guidance for the children	₹100000
(vii)	Funeral expenses/transportation charges	₹25000
<i>Total</i>		₹1197096

10. 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 ₹6,48,600/- to ₹11,97,096/-

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. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimant no. 1 in her bank accounts or pay the same through demand drafts. The share of claimants-appellants No. 2 to 4, 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 05, 2016
jk

(SURINDER GUPTA)
JUDGE