

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**1. FAO No. 2701 of 2013 (O&M)  
Date of Decision : 08.08.2016**

Saroj and another ....Appellants

Versus

Udmi Ram and others ....Respondents

**2 FAO No. 1736 of 2014 (O&M)**

Rohtash Kumar and another ....Appellants

Versus

Udmi Ram and others ....Respondents

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

Present: Mr. Gopal Sharma, Advocate  
for the appellants in FAO No. 2701 of 2013 &  
for respondents no. 4 and 5 in FAO No. 1736 of 2014.

Mr. J.P. Sharma, Advocate  
for appellants in FAO No. 1736 of 2014 &  
for respondents 4 and 5 in FAO No. 2701 of 2013

Mr. R.C. Kapoor, Advocate  
for respondent no. 3.

**Surinder Gupta, J.**

Above-captioned appeals have been taken up together for disposal by this common judgment as these arise out of the same award dated 07.02.2013 passed by Motor Accident Claimants Tribunal, Narnaul (later referred to as 'the Tribunal') and have been filed by different set of claimants in same claim petition.

2. To avoid repetition, the facts are being extracted from FAO No. 2701 of 2013.

3. Claimants have filed appeals seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (later

referred to as ‘the Tribunal’) for death of Tarun Kumar (later referred to as ‘the deceased’) husband of claimant-appellant no. 1, father of claimant-appellant no. 2 and son of claimants-respondents no. 4 and 5 (appellants in FAO No. 1736 of 2014), in a motor vehicle accident with truck bearing registration no. HR-55-E-5161 (later referred to as ‘the offending vehicle’).

4. Case of claimants, in brief, is that on 28.01.2010, the deceased was travelling in Scorpio alongwith Mukesh, Surender, Satyender, Sudhir etc., which was hit by the offending vehicle resulting in injuries to other occupants and death of Tarun Kumar (deceased) at the spot.

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

6. The Tribunal allowed compensation of ₹12,30,060/-, which was computed as follows:-

| <b><i>Sr.No.</i></b> | <b><i>Heads</i></b>                                           | <b><i>Calculation</i></b>  |
|----------------------|---------------------------------------------------------------|----------------------------|
| (i)                  | Name of the deceased                                          | Tarun Kumar                |
| (ii)                 | Age of the deceased                                           | 24 years                   |
| (iii)                | Income of the deceased                                        | ₹10000 per month           |
| (iv)                 | 1/3 <sup>rd</sup> of (iii) deducted towards personal expenses | (₹10000-₹3333)=<br>₹6667   |
| (v)                  | Amount of dependency after applying the multiplier of 15      | (₹6667x12x15)=<br>₹1200060 |
| (vi)                 | Loss of consortium                                            | ₹10000                     |
| (vii)                | Funeral expenses                                              | ₹20000                     |
| <b><i>Total</i></b>  |                                                               | <b>₹1230060</b>            |

4. Against the award wife and minor child of the deceased filed separate appeal bearing FAO No. 2701 of 2013 while parents of the deceased filed appeal bearing FAO No. 1736 of 2014.

5. I have heard learned counsel for the parties and perused the paper-book and record of the Tribunal with their assistance.

6. Learned counsel for appellants has argued that income tax return of the deceased for the financial year 2007-2008 (Ex. P-18) shows his gross income as ₹1,20,420/-. In the next return for the financial year 2008-2009, income of the deceased after deduction under Chapter VI-A is mentioned as 1,39,960/- but the Tribunal has taken his income as ₹10,000/- per month i.e. ₹1,20,000/- per annum, which is against the documentary evidence on record. The Tribunal relied on the statement of PW-7 Jagdev, owner of Satyam Steel Industries, Vatva, Ahmedabad with whom the deceased was employed. He has stated that as per his record, salary of the deceased was ₹10,100/- per month. He has further stated that the deceased was also doing side business and was earning ₹4000/- to ₹5000/- per month. In income tax return, which was filed on 30.10.2009 with Income Tax Authorities i.e. much prior to the date of incident, income of ₹57,680/- has been shown from business/profession of the deceased, as such, there was no reason for the Tribunal either to reject part statement of PW-7 Jagdev or to ignore income of the deceased as mentioned in income tax return for the financial year 2008-2009. The multiplier as applied by the Tribunal while computing amount of dependency is 15 while as per observation of Apex Court in **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, it should be 18. The Tribunal has allowed compensation for loss of consortium as ₹10,000/-, which is on lower side and should be ₹1 lac as per observation of Apex Court in **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54**. No compensation was allowed to minor child of the deceased towards loss of love and affection care and guidance and to parents for loss of estate, love and affection.

Claimants are also entitled to addition in income of the deceased towards future prospects as per observation of Apex Court in ***Rajesh's case (supra)*** and ***Munna Lal Jain and others vs. Vipin Kumar Sharma and others, 2015 (3) RCR (Civil) 447.***

7. Learned counsel for respondent no. 3 has argued that the matter regarding grant of future prospects is pending consideration before the Apex Court in ***National Insurance Company Limited vs. Pushpa and others, 2015 (9) SCC 166***, as such, claimants are not entitled to any compensation on this score. While referring to observations of coordinate Bench of this Court in ***Reeta Mahajan and others vs. Hans Raj and others, 2016 (3) PLR 528***, learned counsel for respondent no. 3 has argued that amount of compensation, if allowed towards future prospects, may be ordered to be deposited in a bank till the decision by Apex Court.

8. The deceased was 24 years of age and as per law settled by Apex Court in ***Sarla Verma's case (supra)***, the multiplier attracted to this case while computing amount of dependency is 18 and the Tribunal has committed error while applying the multiplier of 15. Claimants are also entitled to compensation of ₹1 lac towards loss of consortium for wife of the deceased and a similar amount towards loss of love and affection care and guidance for minor son of the deceased. Parents of the deceased are also entitled to compensation of ₹1 lac towards loss of estate, love and affection.

9. The matter regarding grant of future prospects has already been discussed in detail by this Court in ***FAO No. 2032 of 2014 (Kiran @ Sunita and others vs. Naresh Kumar and others) decided on 06.04.2016.*** We all are living in the age of inflationary trends where cost of living is increasing day by day. Even otherwise, every person whether he is a daily wager or in

any avocation, profession or business, tries to rise high in life. The prices of goods of daily need have also arisen manifold. The prices of food-grains, milk and grocery items have seen manifold increase during this period and this is one of the factor that prevails in the mind of this Court while allowing addition in income of the deceased towards future prospects. Even otherwise, deceased appeared to be a hard working entrepreneur that besides being an employee with PW-7 Jagdev, he had been earning a substantial amount by doing side business, which reflect his zeal to rise high in life and makes it a fit case for grant of addition in his income towards future prospects. The issue of grant of addition in income of deceased has been dealt with in ***Kiran @ Sunita's case (supra)*** and it was held that claimant in a motor vehicle accident case are entitled to addition in the income of deceased as per norms settled in ***Rajesh's case (supra)*** and ***Munna Lal Jain's case (supra)***.

10. In case of ***Reeta Mahajan (supra)***, the deceased was not in permanent employment, as such, amount of compensation awarded towards future prospects was ordered to be deposited as fixed deposit in some nationalized bank. In this case, the deceased was in permanent employment of a company and no such precaution is called for.

11. The Tribunal has taken income of the deceased as ₹10,000/- as per statement of PW-7 Jagdev, owner of Satyam Steel Industries, Vatva, Ahmedabad, with whom the deceased was employed. He had also stated that the deceased was doing side business thereby earning ₹4000/- to ₹5000/- per month. Income tax return of the deceased for the financial year 2008-2009 shows his income after deduction under Chapter VI-A as ₹1,39,960/- and there was no reason to discard this documentary evidence on record

regarding income of the deceased. It will be appropriate to rely on income

tax return of the deceased, as such, his income is taken as ₹1,39,960/- rounded off to ₹1,40,000/- per annum and as per age of the deceased addition of 50% is made in his income towards future prospects.

12. 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)                   | Age of Tarun Kumar (deceased)                                           | 24 years                         |
| (ii)                  | Annual income of the deceased                                           | ₹140000                          |
| (iii)                 | 1/3 <sup>rd</sup> of (ii) deducted as personal expenses of the deceased | ₹140000-₹46667= ₹93333 per annum |
| (iv)                  | 50% of (iii) to be added towards future prospects                       | ₹93333+₹46667 = ₹140000          |
| (v)                   | Compensation after multiplier of 16 is applied                          | (₹140000X18) = ₹2520000          |
| (vi)                  | Loss of consortium                                                      | ₹100000                          |
| (vii)                 | Loss of love and affection care and guidance for minor son              | ₹100000                          |
| (viii)                | Loss of estate, love and affection for parents                          | ₹100000                          |
| (ix)                  | Compensation for funeral expenses                                       | ₹25000                           |
| <b><i>Total</i></b>   |                                                                         | <b>₹2845000</b>                  |

10. As a sequel of my above discussion, both the appeals are accepted. Award of the Tribunal is modified and compensation allowed to claimants is enhanced from ₹12,30,060/- to ₹28,45,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. Amount of enhanced compensation shall be shared by claimants-appellants as follows:-

- (i) Wife of the deceased : 40%
- (ii) Son of the deceased : 40%
- (iii) Parents of the deceased : 20%

11. 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 claimant-appellant No. 2-Prince, who is minor, will be deposited in some nationalized bank as fixed deposit till the period he attains 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 he shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in his name after the date of his attaining majority. The above direction has been issued to save the claimant from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after attaining the age of majority. Claimant no. 1-Sukhwinder Kaur, being mother and natural guardian of minor claimant shall be entitled to get interest on the share of minors deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of his brought up.

**August 08, 2016**  
jk

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

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No