

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1276 of 2014 (O&M)
Date of Decision : 28.09.2016

Raksha Devi and others
....Appellants

Versus

Rajesh Kumar and others
....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ishan Cooner, Advocate
for the appellants.

Mr. V.K. Garg, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (later referred to as ‘the Tribunal) for death of Dharamvir @ Mintu (later referred to as ‘the deceased’), husband of claimant no. 1, son of claimants no. 2 and 3 and brother of claimants no. 4 to 6, on 28.06.2011, in a motor vehicle accident with bus bearing No. DL-1PB-9655 (later referred to as ‘the offending vehicle’).

2. As claimants are seeking enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.
3. The Tribunal allowed compensation of ₹6,42,000/-to claimants, which was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Dharamvir @ Mintu
(ii)	Age of the deceased at the time of accident	23 years
(iii)	Income of the deceased	₹4500 per month

(iv)	1/3 rd of (iii) deducted towards personal expenses	(₹4500-₹1500)= ₹3000 per month
(v)	Amount of dependency after applying multiplier of 17	(₹3000X12X17)= ₹612000
(vi)	Funeral, transportation and last rites expenses	₹20000
(vii)	Loss of consortium to wife of the deceased	₹10000
Total		₹642000

4. Learned counsel for appellants has argued that while computing amount of compensation the Tribunal has applied multiplier of 17 instead of 18 as per norms laid down by Apex Court in case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**. Wife of the deceased is entitled to compensation of ₹1 lac towards loss of consortium and parents of the deceased to similar amount towards loss of estate, love and affection. As per observations of Apex Court in case of **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54**, which were followed in case of **Munna Lal Jain and others vs. Vipin Kumar Sharma and others, 2015 (3) RCR (Civil) 447**, claimants are also entitled to 50% addition in income of the deceased towards future prospects.

5. Learned counsel for respondent no. 3-Insurance Company has argued that question for grant of addition in income of the deceased towards future prospects has been referred to a larger Bench of Apex Court in case of **National Insurance Company Limited vs. Pushpa and others, 2015 (9) SCC 166** and till the judgment by larger Bench, it is not appropriate to award compensation towards future prospects of deceased. The Tribunal has allowed compensation for the loss of consortium and funeral expenses which do not call for any enhancement, as such, appeal filed by claimants has no merit and they are not entitled to further enhancement of compensation.

6. It is not disputed that multiplier for computing amount of dependency applicable to this case is 18 as per norms settled in ***Sarla Verma's case (supra)*** and the Tribunal has wrongly applied the same as 17. As per observations of Apex Court in ***Rajesh's case (supra)***, claimants are entitled to compensation of ₹1 lac towards loss of consortium for wife of the deceased. Parents are also entitled to compensation towards loss of estate, love and affection, which is assessed as ₹1 lac.

7. The question for grant of future prospects was 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 and it was observed that claimants are entitled to grant of future prospects as per observations of Apex Court in ***Rajesh's case (supra)*** which was followed in ***Munna Lal Jain's case (supra)***. 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.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased 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)	1/3 rd of (ii) deducted as personal expenses of the deceased	₹6750 - ₹2250) = ₹4500 per month

(iv)	Compensation after multiplier of 18 is applied	(₹4500X12X18) = ₹972000
(v)	Loss of consortium for the wife	₹100000
(vii)	Loss of Estate, love and affection for parents	₹100000
(viii)	Funeral, transportation and last rites expenses as assessed by the Tribunal	₹20000
<i>Total</i>		₹1192000

9. As a sequel of my discussion above, the instant appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Dharamvir @ Mintu is enhanced from ₹6,42,000/- to ₹11,92,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization minus 198 days of delay in filing the appeal. Amount of compensation shall be shared by claimants-appellants as follows:-

- (i) Claimant no. 1-wife = 70%
- (ii) Claimants no. 2-mother = 15%
- (iii) Claimant no.3-father = 15%

10. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank accounts or pay the same through demand drafts.

11. In the event of demise of any of the claimants before or after passing of award, compensation of his share shall be equally distributed amongst surviving claimants.

September 28, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No