

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4464 of 2013(O&M)
Date of Decision : 05.04.2016

Poonam Srivastava and othersAppellants

Versus

Babu Lal and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gurinderjit Singh, Advocate
for the appellants.

Ms. Vandana Malhotra, 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, Patiala (later referred to as 'the Tribunal') for death of Upinder Nath Srivastava (deceased), husband of claimant-appellant no. 1; father of claimants-appellants no. 2 and 3; and son of claimants-appellants no. 4 and 5, in a motor vehicle accident with truck/tanker No. RJ-19-GB-5771 (later referred to as 'the offending vehicle').

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

3. The Tribunal allowed compensation of ₹7,81,000/- for death of Upinder Nath Srivastava (deceased). Date of birth of the deceased as per secondary school examination certificate issued by Punjab School Education Board (Ex. P-9) was 01.04.1971. He was less than 41 years of age on the date of accident. The Tribunal assessed monthly income of the deceased as ₹6000/- from which deduction of

1/4th was made towards personal expenses of the deceased. The Tribunal applied multiplier of 14 (instead of 15) as per norms laid down by the Apex Court in case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121** and calculated amount of dependency as ₹7,56,000/- to which a sum of ₹10,000/- was added towards loss of love and affection for the children and another sum of ₹10000/- was added towards loss of consortium for the wife and ₹5000/- was also allowed towards funeral expenses.

4. Learned counsel for the appellants while 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**, has argued that claimants are entitled to addition of 30% in income of the deceased towards future prospects. Amount of compensation allowed for loss of love and affection, care and guidance for the children, loss of consortium for the wife and funeral expenses are also on lower side. He has argued that the claimants are also entitled to compensation for the loss of estate, love and affection for parents of the deceased.

5. Learned counsel representing respondent no. 3-Insurance Company has argued that the Tribunal was required to allow just and reasonable amount of compensation to the claimants. The accident had taken place on 21.10.2011. Keeping in view the vocation, age and income of the deceased, the Tribunal has rightly allowed compensation as ₹7,81,000/-, which calls for no further enhancement.

6. As per observations in the cases of **Rajesh (supra)** and **Munna Lal Jain (supra)**, claimants are entitled to addition of 30% in income of the deceased, who was more than 40 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 and 3, 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. 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. 4 and 5 are also allowed compensation of ₹1 lac towards loss of estate, love and affection. The multiplier applicable to this case is 15 as per norms laid down in case of **Sarla Verma (supra)**.

7. 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 Upinder Nath Srivastava as assessed by the Tribunal	₹6000 per month
(ii)	30% of (i) above to be added as future prospects	₹6000+₹1800 = ₹7800 per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	₹7800-₹1950 = ₹5850 per month
(iv)	Compensation after multiplier of 15 is applied	(₹5850X12X15) = ₹1053000
(v)	Loss of consortium	₹100000
(vi)	Loss of love and affection, care and guidance for the children	₹100000
(vii)	Loss of estate, love and affection for parents	₹100000
(viii)	Funeral expenses	₹25000
Total		₹1378000

8. 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 ₹7,81,000/- to ₹13,78,000/-. 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 account or pay the same through demand drafts. The share of appellants No. 2 and 3, 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. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed at ₹20,000/-

April 05, 2016
jk

(SURINDER GUPTA)
JUDGE