

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**FAO No. 4141 of 2014 (O&M)**

**Date of Decision : 09.12.2016**

Rapinder Kaur and others

....Appellants

Versus

Vijay Kumar and others

....Respondents

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

Present: Mr. C.L.Verma, Advocate  
for the appellants.

Mr. G.C. Rattan, Advocate  
for respondents no. 1 and 2.

Mr. Gopal Mittal, Advocate  
for respondent no. 3.

**Surinder Gupta, J.**

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Amritsar (later referred to as ‘the Tribunal’) for death of Amarjit Singh (later referred to as ‘the deceased’), in a motor vehicle accident on 25.05.2012 with bus bearing registration no. PB-07-N-7822 (later referred to as ‘the offending vehicle’).

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

3. The Tribunal allowed compensation of ₹8,30,000/- to claimants, 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 | Amarjit Singh             |

|              |                                                                       |                                   |
|--------------|-----------------------------------------------------------------------|-----------------------------------|
| (ii)         | Age of the deceased                                                   | Between 36 to 40 years            |
| (iii)        | Income of the deceased                                                | ₹6000 per month                   |
| (iv)         | 1/4 <sup>th</sup> deduction towards personal expenses of the deceased | (₹6000-₹1500)=<br>₹4500 per month |
| (v)          | Amount of dependency after applying multiplier of 15                  | (₹4500x12x15)=<br>₹810000         |
| (vi)         | Loss of consortium for wife of the deceased                           | ₹10000                            |
| (vii)        | Loss of estate for mother of the deceased                             | ₹5000                             |
| (viii)       | Funeral expenses                                                      | ₹5000                             |
| <b>Total</b> |                                                                       | <b>₹830000</b>                    |

4. Learned counsel for appellants has argued that the deceased admittedly was a driver. His income was claimed as ₹13000/- per month but in the absence of any documentary evidence, the Tribunal assessed his income as ₹6000/- per month, which is on lower side. As per observations of Apex Court in case 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**, claimants are also entitled to 50% addition in income of the deceased towards future prospects. Amount of compensation allowed towards funeral expenses, loss of consortium and loss of estate is on lower side and no compensation was awarded to minor children of the deceased towards loss of love and affection care and guidance.

5. Learned counsel for respondents have argued that the Tribunal has rightly assessed income of the deceased in the absence of any documentary evidence as ₹6000/- per month. The multiplier was applied as per age of the deceased. Compensation awarded by the Tribunal is just and

reasonable amount and calls for no further enhancement.

6. Claimants have alleged that the deceased was working as driver with Rohit Kumar and was getting ₹13000/- per month as salary, which included ₹8000/- as wages and ₹150/- per day as allowance. He used to go to Chandigarh from Amritsar for delivery of vegetables in Mahindra Pick Up bearing registration no. PB-02-BK-9812. On the date of accident, he had come to Chandigarh and after unloading the vegetables, was returning to Amritsar when his vehicle was hit by the offending vehicle near Kathgarh. It is proved that deceased was a driver and his salary in the absence of any evidence is to be assessed keeping in view his job. In case of **Minu Rout and another vs. Satya Pradyumna Mohapatra and others, 2013 (10) SCC 695** the Apex Court has assessed income of the deceased, who was a driver, as ₹6000/- per month. In that case, accident took place in the year 2004. Relying on the quantum of income of driver as assessed in above referred case, income of the deceased in present case can be safely assessed as ₹8000/- in the year 2012. As per observation of Apex Court in **Rajesh's case (supra) and Munna Lal Jain's case (supra)**, claimants are entitled to 50% addition in income of the deceased towards future prospects. The amount of compensation awarded to claimants towards loss of consortium and loss of estate being on lower side is enhanced to ₹1 lac under both the heads. Minor children of the deceased are also entitled to ₹1 lac towards loss of love and affection care and guidance and funeral expenses are also enhanced from ₹5000/- to ₹25,000/-.

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

| <b><i>Sr. No.</i></b> | <b><i>Heads</i></b>                                                     | <b><i>Calculation</i></b>            |
|-----------------------|-------------------------------------------------------------------------|--------------------------------------|
| (i)                   | Income of the deceased                                                  | ₹8000 per month                      |
| (ii)                  | 50% of (i) above to be added as future prospects                        | (₹8000+₹4000)=<br>₹12000 per month   |
| (iii)                 | 1/4 <sup>th</sup> of (ii) deducted as personal expenses of the deceased | ₹12000 - ₹3000) =<br>₹9000 per month |
| (iv)                  | Compensation after multiplier of 15 is applied                          | (₹9000X12X15) =<br>₹1620000          |
| (v)                   | Loss of consortium for the wife                                         | ₹100000                              |
| (vi)                  | Loss of love and affection care and guidance for the children           | ₹100000                              |
| (vii)                 | Loss of estate for mother of the deceased                               | ₹100000                              |
| (vii)                 | Transportation and funeral expenses                                     | ₹25000                               |
| <b><i>Total</i></b>   |                                                                         | <b>₹1945000</b>                      |

8. 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 Amarjit Singh is enhanced from ₹8,30,000/- to ₹19,45,000/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the claim petitions till actual realization. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimants-appellants no. 1 and 4, in her bank accounts or pay the same through demand drafts. The share of claimants-appellants No. 2 and 3, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain 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 they shall not be asked to bring 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 claimants from unnecessary harassment caused due to directions, the

bank usually give to bring the order of Tribunal to get the payment even after minor claimant has attained age of majority. Claimant no. 1-Rapinder Kaur, being mother and natural guardian of minor claimants shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up.

9. In the event of demise of any of the claimants before or after passing of award, compensation of his/her share shall be paid to surviving claimants.

**December 09, 2016**  
jk

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

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*