

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5443 of 2013 (O&M)
Date of Decision : 12.07.2016

Rekha Devi and others

....Appellants

Versus

Hem Chand and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. B.K. Bagri, Advocate
for the appellants.

None for respondents.

Surinder Gupta, J.

Vide award dated 30.04.2013 passed by Motor Accident Claims Tribunal, Rewari (later referred to as 'the Tribunal'), claimants were allowed compensation of ₹23,18,959/- for death of Rajiv Chaudhary (later referred to as 'the deceased'), husband of claimant-appellant no. 1, father of claimants-appellants no. 2 and 3 and son of claimant-appellant no. 4, in a motor vehicle accident with motorcycle bearing registration no. DL-9SU-7112 (later referred to as 'the offending vehicle'). Amount of compensation awarded by Tribunal was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Rajiv Chaudhary
(ii)	Age of the deceased	27 years
(iii)	Income of the deceased	₹14000 per month
(iv)	1/4 th of (iii) deducted towards personal expenses of the deceased	₹14000-₹3500= ₹10500 per month
(iv)	Compensation after applying the multiplier of 17	(₹10500X17X12)= ₹2142000

(vi)	Medical expenses	₹168959/-
(vii)	Loss of consortium	₹5000
(viii)	Funeral expenses	₹3000
Total		₹2318959

BRIEF FACTS

2. Case of claimants, in brief, is that accident took place on 17.05.2011 at about 07.30 a.m., when the deceased alongwith his elder brother Ravinder was going for his job at Gurgaon. When they reached Maheshwari bus-stand for boarding three-wheeler, the deceased was hit by the offending vehicle, which was being driven in a rash and negligent manner by respondent no. 1-Hem Chand, who was coming from Bhiwadi side. Deceased fell on the road and sustained multiple grievous injuries. At the time of accident, a Maruti Wagon-R and motorcycle Bajaj Pulsar of black colour came from Bhiwadi side and remained present at the spot for a moment and thereafter fled away and inadvertently, registration number of both the vehicles i.e. offending motorcycle and Maruti car (Wagon-R) bearing registration No. HR-29-Z-2010 were noted down. The deceased was firstly taken to Highway Hospital, Dharuhera but later on referred to Paras Hospital, Gurgaon, where he succumbed to injuries. The matter was reported to the police vide FIR No. 161 dated 17.05.2011, registered at Police Station Dharuhera.

3. Owner and driver of the offending vehicle in their written statements denied the accident. In its written statement respondent no. 3-Insurance Company also took the plea that no accident took place with the offending vehicle.

4. As neither owner or driver nor Insurance Company is in

appeal, detailed facts of the case are being skipped for the sake of brevity.

5. Learned counsel for appellants while making out a case for enhancement of compensation awarded to claimants has argued that the compensation awarded by the Tribunal falls below the parameters of just and reasonable compensation to which claimants are entitled. Deceased was employed as Accounts Executive with WIZIE.com India Pvt. Ltd., Gurgaon and was getting total salary of ₹18000/- per month. As per observation of Apex Court 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**, claimants are entitled to 50% addition in income of the deceased towards future prospects. Children of the deceased are also entitled to compensation amounting to ₹1 lac towards loss of love and affection care and guidance while wife of the deceased is also entitled to ₹1 lac towards loss of consortium. Claimant-appellant no. 4-Smt. Nirmla has lost her son and she is also entitled to compensation of ₹1 lac towards loss of estate, love and affection in view of observations of Apex Court in **Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476**. Funeral expenses awarded by Tribunal as ₹3000/- calls for revision to ₹25,000/- as in the year 2011 it was not possible to meet the expenses of last rites for such a meagre amount of ₹3000/-.

6. Parameters of just and reasonable amount of compensation have been settled by Apex Court in catena of judgments. Tribunal in this case did not allow any compensation to minor children for loss of love and affection care and guidance and in the same manner no compensation was allowed to mother of the deceased for loss of estate, love and affection. As

per observations of Apex Court in ***Rajesh's case (supra)*** and ***Munna Lal Jain's case (supra)***, claimants are also entitled to 50% addition in income of the deceased towards future prospects. I agree with learned counsel for appellants that amount of compensation awarded towards expenses on last rites as ₹3000/- is quite meagre and requires upward revision.

7. In view of above discussion, amount of compensation to which claimants are entitled for death of Rajiv Chaudhary in a motor vehicle accident, is reassessed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Age of Rajiv Chaudhary (deceased)	27 years
(ii)	Income of the deceased	₹14000 per month (as assessed by the Tribunal)
(iii)	50% of (ii) to be added towards future prospects	₹14000+₹7000 = ₹21000
(iv)	1/4 th of (iii) deducted as personal expenses of the deceased	₹21000-₹5250= ₹15750 per month
(v)	Compensation after multiplier of 17 is applied	(₹15750X12X17) = ₹3213000
(vi)	Loss of consortium	₹100000
(vii)	Loss of love and affection care and guidance for minor children	₹100000
(viii)	Loss of estate, love and affection for mother	₹100000
(ix)	Compensation for funeral expenses	₹25000
<i>Total</i>		₹3538000

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 ₹23,18,959/- to ₹35,38,000/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of claim petition till actual realization. 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 claimants-appellants No. 2 and 3, who are 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 minors as required at the time of deposit of the amount and they shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in their names 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. Claimant no. 1-Rekha Devi, being mother and natural guardian of minor claimants 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 their brought up. Counsel fee is assessed at ₹20,000/-.

July 12, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No