IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5811 of 2013 (O&M)
Date of Decision : 21.04.2016

Pooja and others .....Appellants

Versus

Sukh Pal Singh and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sudhir Aggarwal, Advocate
for the appellants.

Ms. Monika Jangra, Advocate
for Ms. Vandana Malhotra, Advocate
for respondent no. 3.

Surinder Gupta, J.

This is appeal by claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Gurgaon (later referred to as 'the Tribunal') for death of Sunil Kumar (deceased), husband of claimant-appellant no. 1; father of claimant-appellant no. 2; and son of claimants-appellants no. 3 and 4, in a motor vehicle accident with trolla bearing registration No. HR-55-K-1342 (later referred to as 'the offending vehicle').

2. Case of claimants, in brief, is that on 02.12.2011, the deceased was going to Gannaur driving his truck bearing registration No. HR-55-G-8850 loaded with tiles. When he reached near village Yakubpur on Farrukh Nagar-Jhajjar road, the offending vehicle came from opposite side, which was being driven by respondent no. 1 in a rash and negligent manner and hit the truck causing serious injuries to the deceased resulting in his death.

3. Before the Tribunal, claimants took the plea that deceased was earning ₹10,000/- per month being driver of the truck but the Tribunal in the absence of any evidence assessed income of the deceased as ₹5000/- per month. From income of the deceased 1/3rd was deducted towards his personal expenses and by applying the multiplier of 18, amount of dependency was worked out as ₹7,20,000/-. The Tribunal also allowed compensation of ₹10,000/- towards loss of consortium for wife of the deceased and ₹5000/- as compensation for loss of estate and similar amount of compensation towards funeral expenses.

4. Relying on the observations of the Apex Court in the 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***, learned counsel for the appellants has argued that the deceased was 24 years of age, as such, 50% addition was required to be made in his income towards future prospects. Amount of compensation awarded by the Tribunal towards loss of consortium, loss of estate and funeral expenses is on lower side. The Tribunal has also not allowed any compensation towards loss of love and affection care and guidance for minor son of the deceased. Referring to observations of the Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, he has further argued that the Tribunal has made deduction of 1/3rd instead of 1/4th from income of the deceased towards his personal expenses, as he left behind four dependents. He, however, conceded finding of Tribunal qua monthly income of the deceased.

5. Learned counsel representing respondent no. 3-Insurance Company has argued that the Tribunal is required to allow just and reasonable amount of compensation for death of Sunil Kumar in a motor vehicle accident. The accident had taken place on 02.12.2011. Keeping in view the vocation, age and income of the deceased, the Tribunal has rightly allowed compensation as ₹7,40,000/-, which calls for no further enhancement.

6. I agree with learned counsel for Insurance Company to the extent that the Tribunal has to allow just and reasonable compensation to the victim or dependents of victim in motor vehicle accident case. The quantum of 'just and reasonable' compensation depends upon facts of each case. Apex Court in a catena of judgments has settled the law relating to norms required to be taken care while computing the quantum of compensation.

7. As per observation of Hon'ble Supreme Court in the case of ***Rajesh (supra)***, claimants are entitled to 50% addition in income of the deceased towards his future prospects. Applying the norms of compensation awarded in cases ***Rajesh (supra)*** and ***Munna Lal Jain (supra)***, claimant no. 1-wife of the deceased is allowed compensation of ₹1 lac towards loss of consortium while claimant-appellant no. 2 is 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. 3 and 4 are also allowed compensation of ₹1 lac towards loss of estate, love and affection.

8. 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 Sunil Kumar as assessed by the Tribunal	₹5000 per month
(ii)	50% of (i) above to be added as future prospects	₹5000+₹2500= ₹7500 per month
(iii)	1/4th of (ii) deducted as personal expenses of the deceased	₹7500-₹1875= ₹5625 per month
(iv)	Compensation after multiplier of 18 is applied	(₹5625X12X18) = ₹1215000
(v)	Loss of consortium	₹100000
(vi)	Loss of love and affection, care and guidance for minor son	₹100000
(vii)	Loss of estate, love and affection for parents	₹100000
(viii)	Funeral expenses	₹25000
Total		₹1540000

9. 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 ₹7,40,000/- to ₹15,40,000/-. 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 no. 1, 3 and 4 in their bank accounts or pay the same through demand drafts. The share of claimant-appellant No. 2, who as per his age given at the time of filing of the petition is still minor, will be deposited in some nationalized bank as fixed deposits till the period he attains majority. It is, however, made clear that the bank may take the documents regarding age of the minor, as required, at the time of deposit of the amount and the minor 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 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. Counsel fee is assessed at ₹ 20,000/-.

April 21, 2016 **(SURINDER GUPTA)**
jk **JUDGE**