

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5925 of 2013 (O&M)
Date of Decision : 09.12.2016

Rupinder Kaur and othersAppellants

Versus

Gurmeet Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. Pardeep Singh, Advocate
for respondent no. 1.

Mr. Suvir Dewan, Advocate
for respondent no. 2.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Moga (later referred to as ‘the Tribunal’) for death of Gurtej Singh (later referred to as ‘the deceased’), in a motor vehicle accident on 17.10.2011 with truck bearing registration no. RJ-14-1G-1924 (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. Compensation of ₹6,34,000/- allowed by the Tribunal to claimants, was computed as follows:-

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Gurtej Singh
(ii)	Age of the deceased	47 years

(iii)	Income of the deceased	₹6000/- per month
(iv)	Deduction of 1/3 rd applied by the Tribunal	(₹6000-₹2000)= ₹4000 per month
(v)	Amount of dependency after applying multiplier of 13	(₹4000x12x13)= ₹624000 per annum
(vi)	Loss of consortium for wife	₹5000
(vii)	Funeral expenses	₹5000
Total		₹634000

4. Learned counsel for appellants has argued that the Tribunal while assessing income of the deceased ignored his income tax return for the assessment year 2009-10, merely on the ground that it is a marked document. This return was filed on 11.06.2009 i.e. more two years before death of the deceased and there was no reason to ignore this vital piece of evidence regarding income of the deceased. Income tax return shows income of the deceased as ₹1,22,490/-. After two years, income of the deceased could be taken more than 1,22,000/- and not less than the income of the year 2009-10. This fact was also proved that the deceased was owning about eight acres of land and *jamabandi* of the land was also produced on file. The Tribunal has not considered his income as a manager/worker on his land. He has submitted that income of the deceased should be taken as per income tax return (mark 'A') and amount of dependency may be calculated accordingly. Tribunal has allowed only ₹5000/- towards funeral expenses of the deceased and ₹5000/- towards loss of consortium for the wife, which is quite meagre amount of compensation and nothing was allowed towards loss of love and affection care and guidance to children of the deceased out of whom one was minor. This amount of compensation be suitably enhanced and claimants be also allowed addition in income of the deceased 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

5. Learned counsel for respondents have argued that the Tribunal has rightly ignored the income tax return for the assessment year 2009-10 as it was not duly proved by examining any officer from Income Tax Department. Compensation allowed by the Tribunal is just and reasonable and calls for no further enhancement.

6. Provisions of Motor Vehicles Act relating to grant of compensation to victim or dependants of victim of an accident, is a beneficial legislation and the procedure while dealing with claim petition is a summary procedure. In order to prove income of the deceased, claimants have placed on file his income tax return which was submitted in Income Tax Department on 11.06.2009. This return bears the seal and date of receipt of Income Tax Department. In the absence of any evidence that it is not a genuine document, the Tribunal could rely on income of the deceased as mentioned in this return. It is not disputed that the deceased was a land owner possessing about eight acres of land. *Jamabandi* of his land were also produced on record. A land owner/agriculturist is not only a worker on his land, but also manages the same and the Tribunal was required to assess the value of his labour, efforts and management in cultivating, looking after the crop, its marketing etc. It appears that deceased was also in business and running a garment shop. In FIR (Ex. P-1), it was stated by Gural Singh-complainant that his brother was having a readymade garment shop at village Badhani Kalan. On the fateful day, he had come to complainant-Gural Singh, his brother, for going to village Butter Kalan. Deceased was also having an account in State Bank of Patiala, which shows frequent

was having balance amount of about ₹2 lacs in his bank account. He had also taken loan of ₹3 lacs from Cooperative Bank as per his passbook, copy of which is mark 'C', which shows that he had been paying installments of his loan from time to time. He had also been issued Cooperative Kisan Credit Card, copy of which is mark 'D', on which he had been raising loan and making payment of loan amount. Passbook of his loan account with the Mandi Nihal Singh Wala Primary Cooperative Agricultural Development Bank Ltd. (mark 'E') shows that he had been regularly paying installments of ₹25,000/- or so against his loan amount of ₹3 lacs. As per statement of account of State Bank of Patiala (mark 'K'), he had been regularly depositing installments against loan of ₹2 lacs raised by him. All these documents are sufficient to draw the inference that the deceased was having good financial status. Rupinder Kaur, wife of the deceased, while appearing as PW-2 has stated that her husband was running a shop in the name and style of M/s Dhaliwal Garments at village Badhani Kalan and was having income of ₹35,000/- per month. She has also placed on record bills of purchase of material for his shop by the deceased as mark 'L', 'M' and 'N'.

7. The Tribunal has committed error while ignoring all the aforesaid documents and assessing income of the deceased as ₹6000/- per month. There is no reason to ignore income of the deceased as mentioned in income tax return for the assessment year 2009-10. This is the best piece of evidence, which could be relied on. Relying on income of the deceased as mentioned in income tax return (mark 'A'), I assess his annual income as ₹1,22,500/-. In view of observations of Apex Court in ***Rajesh 's case (supra) and Munna Lal Jain's case (supra)***, claimants are also entitled to 30% addition in income of the deceased towards future prospects. The

which is in accordance with observations of Apex Court in case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**. However, amount of compensation awarded by the Tribunal towards loss of consortium for wife and funeral expenses of the deceased is on lower side. Nothing was awarded to children of the deceased including one minor child towards loss of love and affection care and guidance. Claimants are entitled to compensation of ₹1 lac towards loss of consortium for wife and ₹1 lac for loss of love and affection for children of the deceased. Amount of funeral expenses as allowed by the Tribunal as ₹5000/- is also enhanced to ₹20,000/-.

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)	Name of the deceased	Gurtej Singh
(ii)	Age of the deceased	47 years
(iii)	Annual income of the deceased	₹1,22,500
(iv)	30% of (iii) above to be added as future prospects	(₹122500+₹36750)= ₹159250 per annum (rounded off to ₹159300)
(v)	1/3 rd of (iv) deducted as personal expenses of the deceased	₹159300 - ₹53100) = ₹106200 per annum
(vi)	Amount of dependency after multiplier of 13 is applied	(₹106200X13) = ₹1380600 per annum
(vii)	Loss of consortium for the wife	₹100000
(viii)	Loss of love and affection care and guidance for the children	₹100000
(ix)	Compensation for funeral expenses	₹20000
<i>Total</i>		₹1600600 (rounded off to ₹1600000)

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 Gurtej Singh is enhanced

from ₹6,34,000/- to ₹16,00,000/-. 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. 2-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.

December 09, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No