

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4121 of 2015(O&M)
Date of Decision : April 23, 2016

Lakhiya @ Lakshi Devi and others

.....Appellants

Versus

Ravinder and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ram Pal Verma, Advocate
for the appellants.

Mr. J.S. Jalli, Advocate for
Mr. Ashish Pannu, Advocate
for respondents No.1 and 2.

Mr. A.S. Sidhu, Advocate
for respondent No.3.

Surinder Gupta, J.

1. This is appeal by claimants-appellants Lakhiya @ Lakshi Devi and others seeking enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Sonapat (later referred to as 'the Tribunal') vide award dated 17th July, 2014.

2. The case of the appellants-claimants, in brief, is that on 10.12.2013 Jugal Mandal (since deceased) was standing on the road with Manoj Mandal and was hit by Santro car bearing registration No.26BG-9806 (later referred to

as 'the offending vehicle') which was being driven by respondent No.1-Ravinder in rash and negligent manner. The deceased received injuries and was rushed to Government Hospital, Sonapat, from where he was referred to PGIMS Rohtak, but he succumbed to the injuries on the way.

3. Learned counsel for the appellants has sought enhancement of compensation on two scores; firstly, that the Tribunal has held the age of the deceased as 45 years, but applied the multiplier of 13 instead of 14, as per norms laid down in the case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121** ; secondly, that claimants No.3 and 4 are the son and daughter of the deceased, but the Tribunal has not awarded compensation for the loss of love and affection, care and guidance for them.

4. Learned counsel for respondent No.3-Insurance Company has argued that taking into consideration all the facts, the Tribunal has allowed just and reasonable amount of compensation to the claimants, which calls for no enhancement.

5. The Apex Court in the case of ***Sarla Verma (supra)*** has laid down the norms of applying the multiplier, while calculating the amount of dependency. As per the table given in that case, if the age of the deceased is 45 years on the date of accident, multiplier of 14 is to be applied and not of 13. The Tribunal while relying on the observations in the case of ***Sarla Verma (supra)***, has wrongly applied the multiplier of 13, whereas, the multiplier applicable to this case is 14. The Tribunal has also not allowed any compensation for the loss of love and affection, care and guidance for the minor

children of the deceased. Applying the norms of compensation awarded in the above referred case, children of the deceased i.e. claimants-appellants no. 3 and 4, are allowed compensation of ₹1 lac towards loss of love and affection, care and guidance.

6. In view of the above discussion, both the contentions raised by learned counsel for the appellants are accepted and the amount of compensation, allowed to claimants is enhanced as tabulated below:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased Jugal Mandal as assessed by the Tribunal	₹ 5000 per month
(ii)	30% of (i) above to be added as future prospects as assessed by the Tribunal	₹5000+₹1500 = ₹6500 per month
(iii)	1/4 th of (ii) deducted as personal ex- penses of the deceased as assessed by the Tribunal	₹6500-₹1625 = ₹4875 per month
(iv)	Compensation after multiplier of 14 is applied	(₹4875X12X14) = ₹8,19,000
(v)	Loss of consortium as assessed by the Tribunal	₹100000
(vi)	Loss of love and affection, care and guidance for the children	₹100000
(vii)	Loss of estate, love and affection for parents as assessed by the Tribunal	₹5000/-
(viii)	Funeral expenses as assessed by the Tribunal	₹25000
<i>Total</i>		₹10,49,000/-

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 ₹8,90,500/- to ₹10,49,000/-. 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 claimants no.1 to 3 in their bank account or pay the same through demand drafts. The share of appellant No.4, minor son of deceased 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. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed at ₹20,000/-

April 23, 2016

deepak/jv

**(SURINDER GUPTA)
JUDGE**