IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 7542 of 2014 (O&M)
Date of Decision : 22.04.2016

Mamtesh and others .....Appellants

Versus

Ranjit Kumar Yadav and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.S. Cooner, Advocate
for the appellants.

Mr. Raghav Sharma, Advocate
for Mr. Aayush Gupta, Advocate
for respondents no. 1 and 2.

None for respondent no. 3.

Surinder Gupta, J.

This is appeal by claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ambala (later referred to as 'the Tribunal') for death of Gurmail Singh (deceased), husband of claimant-appellant no. 1; father of claimant-appellant no. 2; and son of claimant-appellant no. 3, in a motor vehicle accident with truck No. HR-37-C-6258 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal relates to seeking of enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal allowed compensation of ₹6,50,000/- for death of Gurmail Singh (deceased). As per postmortem report (Ex. P-7), age of the deceased was 31 years. The Tribunal assessed monthly income of the deceased as ₹5000/- from which deduction of 1/3rd was made towards his personal expenses. The Tribunal applied

multiplier of 16 as per norms laid down by the Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another*, (2009) 6 SCC 121** and calculated amount of dependency as ₹6,40,000/- to which a sum of ₹9,500/- was added towards loss of estate, loss of consortium and funeral expenses.

4. Learned counsel for the appellants while referring to observations of the Apex Court in cases ***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**, has argued that claimants are entitled to addition of 50% in income of the deceased towards future prospects. Amount of compensation allowed for loss of estate, loss of consortium and funeral expenses is on lower side. He argues that the Tribunal has not allowed any compensation for loss of love and affection care and guidance for minor son of the deceased.

5. Learned counsel for respondents has argued that the Tribunal is required to allow just and reasonable amount of compensation for death of Gurmail Singh in a motor vehicle accident. The accident had taken place on 16.01.2013. Keeping in view the vocation, age and income of the deceased, the Tribunal has rightly allowed compensation as ₹6,50,000/-, which calls for no further enhancement.

6. I agree with learned counsel for respondents 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 Curt 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 observations in the cases of ***Rajesh (supra)*** and ***Munna Lal Jain (supra)***, claimants are entitled to addition of 50% in income of the deceased towards future prospects. Applying the norms of compensation awarded in the above referred cases, claimant no. 1- wife of the deceased is allowed compensation of ₹1 lac towards loss of consortium while son of the deceased i.e. 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 the case of ***Vimal Kanwar and others vs. Kishore Dan and others, 2013 (7) SCC 476***, claimant-appellant no. 3 is 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 Gurmail Singh 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)	1/3rd of (ii) deducted as personal expenses of the deceased	₹7500-₹2500= ₹5000 per month
(iv)	Compensation after multiplier of 16 is applied	(₹5000X12X16) = ₹960000
(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 mother	₹100000
(viii)	Funeral expenses	₹25000
	Total	**₹1285000**

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 ₹6,50,000/- to ₹12,85,000/-. 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-appellants no. 1 and 3 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 22, 2016 **(SURINDER GUPTA)**
jk **JUDGE**