IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.893 of 1992 (O&M)
Date of Decision : 04.05.2018

Prem Devi and others

....Appellants

Versus

Sunil Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ram Chander, Advocate for the appellants.

None for respondent No. 3.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Karnal (later referred to as 'the Tribunal') for death of Tulsi Ram (later referred to as 'the deceased'), in a motor vehicle accident on 29.06.1988 with Matador bearing registration no. DBP-1113.

2. As the only issue involved in this appeal is qua quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal vide award dated 13.11.1991 awarded compensation of ₹1,59,400/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Tulsi Ram
(ii)	Age of the deceased	38 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹1243.60

(iv)	1/3rd of (iii) above deducted towards personal expenses	₹1243.60- ₹414.53) =₹829.07 per month
(v)	Compensation calculated after applying the multiplier of 16	(₹830 X12 X 16) = ₹159360 (rounded to ₹1,59,400)
	Total	**₹159400**

4. Learned counsel for appellants has argued that deceased has left behind 6 claimants. As per the law settled by Hon'ble Apex Court in the case of ***Sarla Verma and others Vs. Delhi Transport Coporation and another, (2009) 6, SCC, 121,*** 1/4th income of the deceased could be deducted towards his personal expenses in place on 1/3rd as deducted by the Tribunal. The claimants are also entitled to 40% addition in income of the deceased towards future prospects and compensation under the conventional heads, in per law laid down by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) R.C.R. (Civil) 1009.***

5. In the case of ***National Insurance Company Limited Vs. Pranay Sethi and others, (supra),*** Hon'ble Apex Court has observed that in the case of deceased in motor vehicle accident, who was self-employed or in private job and was less than 40 years of age, 40% addition in his income is to be awarded towards future prospects. The deceased in this case was 38 years of age, as such, the claimants are entitled to 40% addition in the income of the deceased towards future prospects. The deceased had left behind six claimants and as per the law settled in the case of ***Sarla Verma (supra),*** 1/4th income of the deceased is to be deducted towards his personal expenses. Keeping in view the fact that the accident had taken place in the year 1988 and price index prevailing at that time, the claimants are awarded a lumpsum compensation of ₹40,000/-under the conventional heads i.e loss

of estate, loss of consortium and funeral expenses. While computing the amount of compensation, the Tribunal has applied multiplier of 16, which as per age of the deceased and as per the law settled in the case of ***Sarla Verma (supra)*** is 15, as such, the same is also required to be rectified.

6. In view of my above discussion, the compensation to which claimants-appellants are entitled, is computed as follows:-

(i)	Monthly income of the deceased as assessed by the Tribunal	₹1243.60 per month
(ii)	40% of (i) above added towards future prospects	(₹1243.60+ ₹497.44)= ₹1741.04 (rounded to ₹1741) per month
(iii)	1/4th of (ii) above deducted towards personal expenses	(₹1741- ₹435) = ₹1306 per month
(iv)	Compensation calculated after applying the multiplier of 15 in view of age of the deceased	(₹1306X12X15) = ₹235080
(v)	Compensation under conventional heads	₹40000
Total		**₹275080**

7. As a sequel of my discussion above, the instant appeal has merits and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Tulsi Ram is enhanced from ₹159400/- to ₹275080/-. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of instant appeal till actual realization. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimants in their bank accounts or pay the same through demand drafts. Claimants will share the enhanced amount of compensation as per award.

8. In the event of demise of any of the claimant(s) before disbursement of his/her share, the same shall be apportioned equally

amongst others surviving claimants.

May 04, 2018 **(SURINDER GUPTA)**
jyoti-II **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No