

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**FAO No.1179 of 1994 (O&M)
Date of Decision: March 27, 2018.**

Bala Devi and another

.....APPELLANT(s).

VERSUS

Pepsu Road Transport Corporation and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. R.K. Baggi, Advocate
for the appellant (s).

Mr. Ankit Aggarwal, Advocate for
Mr. Anupam Singla, Advocate
for respondent No.1.

Mr. R.C. Kapoor, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the tribunal') vide award dated 17.12.1993 allowed compensation of ₹90,000/- for death of Rameshwar Dass, husband of appellant No.1, father of appellant No.2 and son of proforma respondents No.4 and 5, in a motor vehicle accident with PRTC Bus bearing registration No.PJG-7413 ((later referred to as 'the offending vehicle').

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

Learned counsel for the appellants has argued that the deceased was a taxi driver and the claimants have claimed his monthly income as ₹3000/- per month but the tribunal has taken the same as ₹1000/- and awarded a lump sum compensation of ₹90,000/- without applying any multiplier. The deceased was 25 years of age and the tribunal instead of computing monthly income of the deceased and then calculating the amount of compensation by applying required multiplier, has committed grave error by confining grant of compensation to a lump sum amount of ₹90,000/-.

The accident in this case resulting in death of Rameshwar Dass took place on 21.12.1990. Claimants have alleged age of the deceased as 30 years in the claim petition, copy of which has been provided to me by learned counsel for respondent. Learned tribunal has not computed the amount of compensation as per age of the deceased by applying required multiplier and even it has not assessed the monthly income of the deceased. The tribunal has computed the amount of compensation of ₹90,000/- awarded to the claimants as follows:-

“21. On careful perusal of the statements of above named witnesses, it is abundantly clear that their statements should not be relied upon in order to determine the quantum of compensation which should be awarded to claimants Bala Devi, her minor female child namely Nini and the mother of Rameshwar Dass deceased in both the claim petitions titled as Bala Devi etc. Vs. P.R.T.C. Etc. and Bala Rani etc. Versus Jarnail Singh etc. No cogent and convincing evidence has been produced by the claimants in order to determine the age and monthly income of Rameshwar Dass deceased.

Moreover, no documentary evidence has been produced on the record by the claimant in order to prove the income and age of Rameshwar Dass deceased. In the absence of such type of evidence, as discussed above, I am of the considered opinion that ends of justice would meet in case claimants Bala Devi, her female daughter and mother of Rameshwar Dass deceased are granted lump sum amount of compensation to the tune of Rs.90,000/- in all without adopting any multiplier on the case in hand in both the claim petitions titled as Bala Devi etc. Vs. P.R.T.C. Etc. and Bala Rani etc. Versus Jarnail Singh etc. So, I order accordingly. Since the offending vehicle was insured with National Insurance Company Limited at the time of accident, so respondent No.3 is directed to make the payment of the above amount to the claimants in accordance with the terms and conditions of the Insurance Policy.”

It is evident that one of the witness Hari Chand stated that the deceased was earning ₹1000-1100 per month while his wife has stated his income as ₹3000/- per month and AW5 Parveen Kumar stated that he was being paid ₹1200/- per month as salary. In view of the above and keeping in view the statement of Parveen Kumar AW5, I take monthly income of the deceased as ₹1200/- per month. Keeping in view the age of the deceased as 30 years as per the averment in the claim petition, multiplier as 17 can be applied while computing amount of compensation. As per law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***, the claimants are also entitled to addition of 40% addition in the income of the deceased towards

future prospects and also entitled to compensation under conventional

heads.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sl.No.	Heads	Calculation
(i)	Income of the deceased	₹1200 per month
(ii)	40% of above (i) to be added as future prospects	(₹1200+₹480)= ₹1680 per month
(iii)	Deduction of 1/3 rd towards personal expenses of the deceased	(₹1680-₹560)= ₹1120 per month
(iv)	Compensation after multiplier of 1_ is applied	(₹1120X12X17)= ₹228480
(v)	Loss of consortium	₹20000
(vi)	Loss of estate	₹10000
(vii)	Funeral expenses	₹5000
Total		₹2,63,480/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹90,000/- to ₹2,63,480/- for death of Rameshwar Dass. 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 the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants as follows:-

- (1)Appellant No.1- widow: 40%
- (2)Appellant No.2-daughter: 40%
- (3)Proforma respondent No.5-mother: 20%

Respondent No.3-insurance company will deposit the shares of appellants-claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. In case of

demise of any of above claimant(s) before his/her share of compensation is

disbursed, the same shall be apportioned equally amongst other surviving appellants-claimants.

March 27, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No