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

**FAO No.1360 of 1999 (O&M)
Date of Decision: March 21, 2018.**

Swaran Kaur and others

..........APPELLANT(s).

VERSUS

Shri Brij @ Chaman and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Saurabh Kapoor, Advocate for
Mr. Ashit Malik, Advocate
for the appellant (s).

Mr. Suvir Dewan, Advocate
for respondent No.3-insurance company.

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SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the tribunal') vide award dated 03.11.1998 allowed compensation of ₹2,02,000/- for death of Jaswant Singh, husband of appellant No.1, father of appellants No.2 to 4 and son of appellants No.5 and 6, in a motor vehicle accident with Truck bearing registration No.DL-1G-9459.

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.

The compensation awarded by the tribunal was computed as follows:-

(i)	Name of the deceased	Jaswant Singh
(ii)	Age of the deceased	35 years

(iii)	Income of the deceased	₹1500 p.m.
(iv)	Deduction towards personal expenses	₹1500-500=₹1000 p.m. i.e. ₹12000 p.a.
(v)	Multiplier applied 16	₹12000X16 = ₹1,92,000/-
(vi)	Funeral and last rites of the deceased	₹10000
	Total	₹2,02,000/-

Learned counsel for the appellants has argued that the tribunal has taken income of the deceased, who was agriculturist as ₹1500/- per month, which is on lower side. While referring to the 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***, he has argued that the claimants are entitled to 40% addition in the income of the deceased towards future prospects. The deceased had left behind his wife and three minor children, as such, 1/4th of the income of the deceased could be deducted towards his personal expenses instead of 1/3rd as taken by the tribunal. The claimants are also entitled to compensation under conventional heads like for loss of estate, loss of consortium and funeral expenses.

Learned counsel for respondent No.3-insurance company submits that the tribunal has rightly taken income of the deceased as per price index prevailing in the year 1996. The deceased was an agriculturist but in the absence of any documentary evidence, he could be equated with a daily wager. In the year 1996, income of the daily wager was around ₹1500/- per month. However, he could not rebut the ratio of law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***.

The claimants have alleged that the deceased was an agriculturist but no document was produced on record to show that he owned any land or had taken any land on lease for cultivation. Keeping in view this fact the tribunal has taken the income of the deceased terming him as unskilled labourer and assessed it as ₹1500/- per month. In the absence of any evidence or document on record, I find no reason to differ with the view as taken by the tribunal. As per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra),*** the claimants are entitled to 40% addition in the income of the deceased towards future prospects. The deceased had left behind four dependants, as such, 1/4th of his come is to be deducted towards his personal expenses. Claimants are also entitled to lump sum compensation of ₹45000/- towards funeral expenses, loss of consortium and loss of estate.

In view of my above discussion, compensation to which the claimants are entitled, is reassessed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹1500 per month
(ii)	40% of above (i) to be added as future prospects	(₹1500+₹600)= ₹2100 per month
(iii)	Deduction of 1/4th towards personal expenses of the deceased	(₹2100-₹525)= ₹1575 per moth
(iv)	Compensation after multiplier of 16 is applied	(₹1575X12X16)= ₹302400
(v)	Loss of consortium	₹25000
(vi)	Loss of estate	₹10000
(vii)	Funeral expenses	₹10000
Total		₹3,47,400/-

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 ₹2,02,000/- to ₹3,47,400/- for death of Jaswant Singh. 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:-

(i)	Appellant No.1-widow	: 40%
(ii)	Minor children of the deceased	: 20% each

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 claimants.

(SURINDER GUPTA)
JUDGE

March 21, 2018.
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***