

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.1859 of 1999 (O&M)
Date of Decision: January 08, 2018.

Seema and others
.....APPELLANT(s).

VERSUS

Rakesh and others
.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amit Jain, Advocate
for the appellant (s).

Mr. Pardeep Goyal, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the tribunal') vide award dated 07.01.1999 allowed compensation of ₹4,06,400/- for the death of Anil Kumar @ Guddu, husband of appellant No.1, father of appellants No.2 and 3 and son of appellants No.4 and 5, in a motor vehicle accident with truck TATA-407 bearing registration No.UP-80H-9857.

The compensation awarded was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Anil Kumar @ Guddu
(ii)	Age of the deceased	30 years
(iii)	Income of the deceased	₹3100/- p.m.
(iv)	Deduction towards personal expenses	₹3100-900=₹2200 p.m. i.e. ₹26400 p.a. (wrongly taken as ₹25,400/- p.a.)
(v)	Multiplier applied 16	₹25400X16 = ₹406400/-
<i>Total</i>		₹4,06,400/-

Learned counsel for the appellants has argued that the deceased left behind his widow, two minor children and parents. Even if, father be not held as dependant on the income of the deceased, still he had left behind four dependants and as per the observations in case of *Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121*, deduction of 1/4th from the income of the deceased towards his personal expenses is to be made. The tribunal while computing amount of compensation has applied the multiplier of 16 while the multiplier attracted as per the observations in case of *Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)*, is 17. The deceased was self employed and claimants are entitled to addition of 40% in the income of the deceased towards future prospects and are also entitled to compensation of ₹15,000/- for loss of estate; ₹40,000/- for loss of consortium and ₹15,000/- towards funeral expenses as per the observations in case of *National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009*.

Learned counsel for insurance company though has not conceded the submissions of learned counsel for the appellants but could not rebut the same in view of the observations of Hon'ble Apex Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*.

Taking note of the observations in the aforesaid case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*, the compensation to which the claimants are entitled, is computed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹3100 per month
(ii)	Deduction of 1/4 th towards personal expenses of the deceased	(₹3100-₹775)= ₹2325 per month
(iii)	40% of above (ii) to be added as future prospects	(₹2325+₹930)= ₹3255 per month
(iv)	Compensation after multiplier of 17 is applied	(₹3255X12X17)= ₹664020
(v)	Loss of consortium	₹40000
(vi)	Loss of estate	₹15000
(vii)	Funeral expenses	₹15000
<i>Total</i>		₹7,34,020/-

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 ₹4,06,400/- to ₹7,34,020/- for the death of Anil Kumar @ Guddu. 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) Smt. Seema, widow : 45%
- (2) Ms. Rashmi and (3) Master Keshav : 15% each
- (4) Balbir Singh and (5) Mrs. Ramwati : 25% (to be shared jointly)

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), his/her share of compensation shall be apportioned equally amongst other surviving claimants. The counsel fee is assessed ₹20,000/-.

January 08, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No