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

FAO No.3653 of 1999 (O&M)
Date of Decision: April 02, 2018.

Manjit Kaur and another

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

VERSUS

Shilpi Chaudhary and others

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

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. RPS Ahluwalia, Advocate
for the appellant (s).

Mr. Mayank Bansal, Advocate for
Mr. Suveer Dewan, Advocate
for respondent No.3-insurance company.

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SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the tribunal') vide award dated 18.08.1998 allowed compensation of ₹8,70,000/- for death of Kulbir Singh husband of appellant No.1, father of appellant No.2, in a motor vehicle accident with Maruti Van bearing registration No.HP-03-2334.

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 was computed as follows:-

(i)	Name of the deceased	Kulbir Singh
(ii)	Age of the deceased	49 years

(iii)	Income of the deceased	₹9750 p.m. (after deducting income tax)
(iv)	Deduction towards personal expenses 1/3rd	₹9750-3250=₹6500 p.m.
(v)	Multiplier applied 11	₹6500X12X11 = ₹858000
(vi)	Medical and transportation expenses	₹5000
(vii)	Loss of consortium	₹5000
(viii)	Funeral expenses	₹2000
	Total	₹8,70,000/-

Learned counsel for the appellants has argued that deceased was employed in Markfed and was getting salary of ₹10,563/- besides ex-gratia amount of ₹6000/- per annum. He was 49 years of age. The tribunal while computing the amount of compensation, has taken income of the deceased as ₹11000/- per month and deducted income tax as ₹1250/- per month from his income tax, which could not be deducted. As per the law settled by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121,*** which has been further upheld in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***, claimants are entitled to addition of 30% in the income of the deceased towards future prospects. Besides this, the tribunal has applied multiplier of 11 instead of 13 as per law settled in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra).*** The appellants-claimants are also entitled to compensation under the conventional heads as per the observations in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra).***

Learned counsel for respondent-insurance company argues that it is a settled law that net carry home income of a person is his gross income minus income tax. The tribunal has rightly calculated income tax deductible from the salary of the deceased. However, he could not rebut the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)*** but has argued that accident in this case took place in the year 1997 i.e. about 21 years ago and this fact be taken care while awarding the amount of compensation under the conventional heads.

The income of the deceased was taken as per his salary certificate, which do not reflect deduction of income tax, as such, the tribunal has rightly deducted income tax from the salary and taken his carry home salary as ₹9750/- per month. The deceased was 49 years of age and was a permanent employee of a Government concern, as such, claimants are entitled to addition of 30% in the income of the deceased towards future prospects and multiplier attracted in this case for loss of dependency as per the age of the deceased is 13 and not 11 as applied by the tribunal. Keeping in view the year of accident and prevailing price index at the relevant time, the appellants-claimants are awarded a lump sum compensation of ₹40,000/- towards loss of consortium, loss of estate and funeral expenses.

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

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹9750 per month (after deducting income tax
(ii)	30% of above (i) to be added as future prospects	(₹9750+₹2925)= ₹12675 per month
(iii)	Deduction of 1/3rd towards personal expenses of the deceased	(₹12675-₹4225)= ₹8450 per month
(iv)	Compensation after multiplier of 13 is applied	(₹8450X12X13)= ₹1318200

Sl.No.	*Heads*	*Calculation*
(v)	Loss of consortium+loss of estate+funeral expenses	₹40000
Total		₹13,58,200/-

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 ₹8,70,000/- to ₹13,58,200/- for death of Kulbir Singh. 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 in equal share. 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.

(SURINDER GUPTA)
JUDGE

April 02, 2018.
Sachin M.

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

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