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

FAO No.1577 of 2001 (O&M)
Date of Decision: May 03, 2018.

Raj Pal @ Rajpal and others

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

VERSUS

Rajesh Kumar etc.

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

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.P. Chahar, Advocate
for the appellant (s).

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

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SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the tribunal') vide award dated 13.12.1999 allowed compensation of ₹1,26,000/- for death of Jitender, son of appellants No.1 and 2, in a motor vehicle accident with jeep bearing registration No.HR-19/9862.

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	Jitender
(ii)	Age of the deceased	24 years (as mentioned in post-mortem report.
(iii)	Monthly contribution to family by deceased as assessed by the tribunal	₹1500 p.m. i.e. ₹18000 per annum
(iv)	Compensation applying multiplier of 10 in bifurcating manner	₹72000+₹54000= ₹1,26,000/-
	Total	₹1,26,000/-

Learned counsel for the appellants has argued that deceased was 24 years of age. He was a student and the tribunal has assessed his income as ₹1500/- per month. He has not challenged the assessment of income but has sought enhancement of compensation as per observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009*** as per which the appellants-claimants are entitled to 40% addition in the income of the deceased towards future prospects; compensation under the conventional heads and calculating the amount of compensation for loss of dependency by applying multiplier as per age of the deceased. He has further argued that while disposing of **FAO No.971 of 2000** titled as ***Anil Kumar Vs. Raj Bala and others,*** vide judgment dated 11.02.2003, a Division Bench of this Court has observed that the compensation amount is payable by the insurance company and not by respondents No.1 and 2, who are owner and driver of the offending vehicle, as such, award be passed against respondent No.3.

Learned counsel for respondent-insurance company submits that he has verified that as per judgment in connected appeal bearing **FAO No.971 of 2000** titled as ***Anil Kumar Vs. Raj Bala and others,*** insurer has been made liable to make payment of entire amount of compensation. However, he has not disputed the grant of compensation as per the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***.

The tribunal, while computing the amount of compensation, has applied the multiplier of 10 and that too in bifurcating manner. The observations of the tribunal to this effect in para 14 of the award is reproduced as follows:-

> "In view of the material available on record, I deem it appropriate to assess the monthly contribution of the deceased to the family at Rs.1500/- on getting employment after completing his studies. (In such like cases, element of approximation is always there). The age of the deceased mentioned in the post mortem report is 24 years. In normal course, he would have married after few years, say after four years. After his marriage, his contribution to the parents would have reduced and he would have started contributing more towards his own family. The amount for first four years comes to Rs.72,000/-. Reducing the dependency to further one-half (after his marriage), yearly dependency works out at Rs.9000/-. If a multiplier of 10 is applied, which appears to be reasonable in this case, the amount for next six years comes to Rs.54000/-. In this manner, the total amount of compensation comes to Rs.1,26,000/-."

As per the law laid down by Hon'ble Apex Court referred above, multiplier is to be applied as per the age of the deceased. No bifurcation of the income of the deceased is to be made while calculating the amount of compensation. The claimants are also entitled to 40% addition in the income of the deceased towards future prospects. Keeping in view the fact that accident had taken place in the year 1998 and the price index prevailing at that time, claimants are entitled to lump sum compensation of ₹20,000/- under the heads of funeral expenses and loss of estate.

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

Sl.No.	*Heads*	*Calculation*
(i)	Contribution by the deceased to his family out of his income (as assessed by the tribunal)	₹1500 per month
(ii)	40% of above (i) to be added as future prospects	(₹1500+₹600)= ₹2100 per month
(iii)	Compensation after multiplier of 18 is applied	(₹2100X12X18)= ₹453600
(v)	Loss of estate	₹10000
(vi)	Funeral expenses	₹10000
Total		₹4,73,600/-

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 ₹1,26,000/- to ₹4,73,600/- for death of Jitender. Liability to pay the amount of compensation shall be of insurance company in view of observations of Division Bench of this Court in connected appeal bearing **FAO No.971 of 2000** titled as ***Anil Kumar Vs. Raj Bala and others***. 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 shares. Respondent-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

May 03, 2018.
Sachin M.

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

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