IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 629 of 2001 (O&M)
Date of Decision : 22.02.2018

Sheela and others .....Appellants

Versus

Krishan and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. O.P. Dhankhar, Advocate
for Mr. Chander Pal Tiwana, Advocate
for the appellants.

Mr. Navin Kapur, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Jhajjar (later referred to as 'the Tribunal') for death of Suraj Bhan (later referred to as 'the deceased'), in a motor vehicle accident on 19.12.1996 with a four wheeler Tata 709 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal is enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. Learned counsel for appellants has raised three submissions in this case. Firstly, that the deceased was 32 years of age and was running a printing press in Delhi from where he was having income of ₹7000/- per month. The Tribunal has taken his income as ₹1800/- per month, which is on lower side. The deceased was matriculate and while running business of printing press could earn a lot and had very good future prospects in the City like Delhi, which is capital of the country. While referring to minimum wages prescribed by the Delhi Government, he has argued that on

01.02.1996, minimum wages of skilled worker were ₹2101/- and status of the person, who was running a printing press, cannot be taken less than a skilled worker. The Tribunal has not allowed any compensation towards future prospects of the deceased and also on conventional heads.

4. Learned counsel appearing for respondent no. 3-Insurance Company has argued that the accident took place in the year 1996 and keeping in view price index of that period, the Tribunal has rightly assessed income of the deceased. He has, however, conceded that claimants cannot be denied future prospects and compensation on conventional heads as per observations of Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***.

5. In order to prove that the deceased was running a printing press, claimants have placed on file copy of partnership deed as Mark 'A-1'. As per this partnership deed, which was executed on 31.12.1990, deceased Suraj Bhan and Narsi Bhagat were partners of M/s Satguru Printers. Narsi Bhagat received his share of partnership vide receipt dated 28.02.1995 (Mark 'A-2') and surrendered his right in the partnership. As per certificate issued by State Bank of India, Mundka Branch, Delhi (Mark 'A-3'), the deceased was proprietor of M/s Satguru Printers. This shows that the deceased was running a business of printing press, which is a skilled job, as such, his salary cannot be taken less than the minimum wages prescribed for a skilled worker, which was ₹2101/- per month as on 01.02.1996.

6. Keeping in view above facts, income of the deceased at the time of his death can be safely assessed as ₹2200/- per month. Claimants are also entitled to 40% addition in income of the deceased towards future prospects and compensation of ₹30,000/- for loss of consortium and ₹10,000/- each

towards funeral expenses and loss of estate. Deceased had left behind five dependants, even if, appellant no. 4-Hari Singh, father of the deceased, be not taken as his dependant. In view of observations of Hon'ble Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, 1/4th deduction from income of the deceased is to be made towards his personal expenses.

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

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Suraj Bhan
(ii)	Age of the deceased	32 years
(iii)	Monthly income of the deceased	₹2200
(iv)	40% of (iii) above added towards future prospects	(₹2200- ₹880)= ₹3080/- per month
(v)	1/4th of (iv) above deducted towards personal expenses	(₹3080- ₹770) = ₹2310 per month
(vi)	Compensation calculated after applying the multiplier of 16 in view of age of mother of the deceased	(₹2310X12X16) = ₹443520
(vii)	Loss of estate	₹10000
(viii)	Loss of consortium	₹30000
(ix)	Funeral expenses	₹10000
	Total	**₹493520 (rounded off to ₹493500)**

8. As a sequel of my discussion above, the instant appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of Suraj Bhan is enhanced from ₹2,16,000/- to ₹4,93,500/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the claim petition till actual realization. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimants in their bank accounts

or pay the same through demand drafts. Claimants will share the amount of compensation as follows:-

(i)	Appellant no. 1 (wife)	:	40%
(ii)	Appellants no. 2 to 4 (children)	:	15% each
(iii)	Appellants no. 5 and 6 (parents)	:	15%

9. In the event of demise of any of the claimants before or after passing of award, compensation of his/her share shall be paid to surviving claimants.

February 22, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*