IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2111 of 2006 (O&M)
Date of Decision : 26.04.2018

Smt. Kiran Puri and another ....Appellants

Versus

Vijay Sharma and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. Rajneesh Malhotra, 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, Chandigarh (later referred to as 'the Tribunal') for death of Vishal Puri (later referred to as 'the deceased'), in a motor vehicle accident on 22.11.2004 with car bearing registration no.CH-03-H-7888 (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. The Tribunal vide award dated 20.02.2006 awarded compensation of ₹2,69,600/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Vishal Puri
(ii)	Age of the deceased	19 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹2700
(iv)	1/3rd of (iii) above deducted towards personal expenses	₹2700- ₹900) = ₹1800 per month

(v)	Compensation calculated after applying the multiplier of 12 as per age of claimant	(₹1800X12X12) = ₹259200 (wrong calculated as ₹259600)
(vi)	Compensation for funeral expenses	₹10000
Total		**₹269200**

4. Learned counsel for appellants has argued that deceased-Vishal Puri was 19 years of age. He was a student and was also working part time as supervisor with a caterer. The Tribunal has discarded the statement of employer that the deceased was getting ₹7000/- per month as salary. Even if, it be believed that claimants have not been able to prove income of the deceased as ₹7000/- per month, still this fact was required to be kept in view while assessing his income that he was doing course of hotel management in an institute at Sector 34, Chandigarh, which was affiliated to Punjab Technical University. He was energetic and was also doing part time job. After completing his studies he would have been a qualified chef/manager, as such, his income may be assessed accordingly. The Tribunal while computing amount of compensation has applied multiplier of 12 as per age of claimants instead of applying the same as per age of the deceased. Claimants are also entitled to addition in income of the deceased towards future prospects and grant of compensation under the conventional heads as per law laid down by Hon'ble Apex Court in case of ***National Insurance Company Limited* vs. *Pranay Sethi and others,* 2017(4) R.C.R. (Civil) 1009.**

5. Learned counsel for respondent no. 3-Insurance Company has argued that the Tribunal has rightly taken income of the deceased as ₹2700/- per month. The evidence produced by claimants that the deceased was getting salary of ₹7000/- per month, was procured one and was rightly rejected by the Tribunal. Deduction of ½ is to be made from income of the

deceased towards his personal expenses. He has, however, not disputed grant of addition in income of the deceased and compensation under the conventional heads as per law settled in case of ***Pranay Sethi (supra)***.

6. Claimant-Kiran Puri has stated that her son was employed as supervisor with catering service, Government Medical College and Hospital, Sector 32, Chandigarh where he was doing duty from 04.00 p.m. to 10.00 p.m. He was also studying in B.Sc. Hotel Management. PW-3 Tejinder Singh, proprietor of I.C.E.I. Institute, Sector 34, Chandigarh, has certified that their institute was affiliated with Punjab Technical University, where any student, who has cleared 10+2 examination, could get admission. PW-4 Joginder Singh produced the record relating to appointment of deceased as supervisor and his salary as ₹7000/- per month but the same was rejected by the Tribunal with observation in para 11 of the award, which reads as follows:-

> *"11. According to PW-4 Joginder Singh, who was working as Catering Manager in the firm in which Vishal Puri (since deceased) was employed as a Supervisor, he (Joginder Singh) was getting a salary of ₹3600/- per month as per the register brought by him. According to this witness, Vishal Puri (since deceased) was working on part time basis at a monthly salary of ₹7000/-. It could not be believed that the Catering Manager PW4 Joginder Singh was getting ₹3600/- per month whereas the Supervisor who was working under him, on part time basis, was getting salary of ₹7000/- per month. I take that Vishal Puri was getting salary of ₹2700/- per month….."*

7. The Tribunal was also not convinced that the deceased had taken admission in B.Sc. with an institute which was affiliated with P.T.U., Chandigarh. I find no reason for the Tribunal to discard the statement of mother of the deceased to this effect. With the passage of time, deceased, who was studying Hotel Management, would have entered this field and could certainly earn handsome amount but his salary is to be taken, which he was earning at the time of his death. The Tribunal has taken salary of the deceased as ₹2700/- per month. Mother of the deceased has stated that he was performing job from 04.00 p.m. to 10.00 p.m. Keeping in view his working hours, I am of the opinion that income of the deceased can be taken as ₹3000/- per month. As per law laid down by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, claimants are also entitled to 40% addition in income of the deceased towards future prospects. The deduction of ½ is to be made from income of the deceased towards his personal expenses as per law settled in above referred case, instead of $1/3^{rd}$ as made by the Tribunal. The accident took place in the year 2004 i.e. about 14 years back and keeping in view the price index prevailing at that point of time, a lump sum of ₹20,000/- is awarded towards funeral expense and loss of estate.

8. In view of my above discussion compensation, to which claimants-appellants are entitled, is computed as follows:-

(i)	Monthly income of the deceased	₹3000 per month
(ii)	40% of (i) above added towards future prospects	(₹3000+ ₹1200)= ₹4200 per month
(iii)	½ of (ii) above deducted towards personal expenses	(₹4200- ₹2100) = ₹2100 per month
(iv)	Compensation calculated after applying the multiplier of 18 in view of age of the deceased	(₹2100X12X18) = ₹453600
(v)	Lump sum compensation towards loss of estate and funeral expenses	₹20000

Total	**₹473600**

9. 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 **Vishal Puri** is enhanced from **₹2,69,600/-** to **₹4,73,600/-**. 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 instant appeal 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 enhanced amount of compensation as per award.

10. In the event of demise of any of the claimants before or after disposal of this appeal, compensation of his/her share shall be paid to surviving claimants.

April 26, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

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