

In the High Court of Punjab and Haryana at Chandigarh.

FAO-4282 of 2007 (O&M)

Reserved on 8.5.2018

Date of Decision : 30.5.2018

Karamjit Kaur and Others

.....*Appellants*

Versus

Tek Singh and others

.....*Respondents***CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present : Mr. Ishwar Lal, Advocate, for the appellants.

None for the respondents.

GURVINDER SINGH GILL J.

1. Karamjit Kaur along with her two minor children and her mother-in-law has filed this appeal seeking enhancement of compensation as awarded by the learned Motor Accident Claims Tribunal, Patiala vide award dated 7.2.2007 on account of death of her husband Baljit Singh in a vehicular accident.
2. As per the case set up by the claimants, Baljit Singh while driving motorcycle bearing registration No. PB-39A-7971 met with an accident on 28.1.2005 on road leading from Zirakpur to Banur when a car bearing registration No. PB-03M-0072 came at a high speed from behind and struck against his motorcycle, resulting in his death. The claim petition was contested by the owner and driver of the car as well as by the Insurer. The learned Tribunal, however, held that the accident in question had occurred due to rash and negligent driving on part of driver of the offending car, resulting in death of Baljit Singh.
3. Though the claimants had set up a case that deceased was an agriculturist,

earning ₹ 3300/- per month and the claimant Karamjit Kaur had also deposed to this effect stating that the deceased was owning 37 bighas of agricultural land but in the absence of any documentary evidence regarding the said vocation and she herself having admitted that her husband was not having land in his own name, the notional income of the deceased was assessed @ ₹ 2200/- per month as an unskilled worker. By deducting 1/3rd towards his personal expenses, the annual dependency of claimants was worked out as ₹ 18,000/- per annum. A multiplicand of 15 was applied by assessing his age as 23 years and amount was worked out as ₹ 2,70,000/- ($18,000 \times 15 = 2,70,000$). A sum of ₹ 4000/- towards funeral expenses and ₹ 2,000/- as loss of consortium were also added and the total compensation was assessed as ₹ 2,76,000/-.

3. The learned counsel for the appellant has submitted that the learned Tribunal fell in error in assessing the income at a meager rate of ₹ 2200/- per month and also erred in applying a multiplier of 15 instead of 18. The learned counsel has further submitted that even the funeral expenses and loss of consortium have not been correctly awarded. The learned counsel, thus, prayed for acceptance of appeal and enhancement of compensation.
4. I have considered the aforesaid submission.
5. Though there is no concrete evidence regarding the deceased being an agriculturist or as regards his income, but even by taking him to be an unskilled labourer and the minimum wages fixed by State, it can safely be said that as in the year 2005 when the accident took place, the deceased must have

been earning at least ₹ 2280/- per month. Keeping in view the dictum of judgment rendered in (2017) 16 SCC 680 National Insurance Company Limited Vs. Pranay Sethi and others and also the age of the deceased, some addition needs to be made in the income taking into account the prospects of increase in income in future. An amount equal to 40% of the income can safely be added towards 'future prospects'. Thus, by adding the said 40% to the income of ₹ 2280/-, the amount would work out to ₹ 3192/- per month ($2280 + 40\% = 3192$). After deducting one-third towards personal expenses, the monthly dependency works out to ₹ 2128/- per month. In other words, the annual dependency is assessed as ₹ 25,536/- ($2128 \times 12 = 25,536/-$).

6. In view of the age of the deceased i.e. 23 years and in light of dictum of Hon'ble Supreme Court in (2009) 6 SCC 121 - Sarla Verma and others vs. Delhi Transport Corporation and another, a multiplier of 18 would be justified. Consequently, the compensation would work out to ₹ 4,59,648/- ($25536 \times 18 = 4,59,648$). Apart from the aforesaid assessed compensation, another amount of ₹ 15,000/- towards funeral expenses, ₹ 15,000/- towards loss to estate and ₹ 40,000/- towards loss of consortium needs to be added to the above assessed compensation. Thus, the total compensation works out to ₹ 5,29,648/- which for the sake of convenience is rounded off to ₹ 5,30,000/-. Accordingly, the compensation, as awarded by the learned Tribunal, is enhanced to ₹ 5,30,000/- alongwith interest @ 7½% payable w.e.f. the date of filing of claim petition till realization to be paid by all the respondents jointly and severally. The compensation shall be shared by the claimants in the following manner :-

1. Claimant No. 1 - ₹ 2,00,000/-

2.	Claimant No.2	-	₹ 1,00,000/-
3.	Claimant No. 3	-	₹ 1,00,000/-
4.	Claimant No.4	-	₹ 1,30,000/-

7. As directed by the learned Tribunal the share of minor claimants shall be deposited in separate FDRs in some nationalized bank till they attain the age of majority and no withdrawal from the same shall be permitted except with prior permission of the Tribunal.
8. Appeal stands accepted in the above mentioned terms.

(Gurvinder Singh Gill)
Judge

30.5.2018
Kamal

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