IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4835 of 2007 (O&M)
Date of Decision : 30.04.2018

Gurmit Kaur and others ....Appellants

Versus

M/s Dehra Transport Company and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Surinder Kaur, Advocate
for Mr. RS.. Malhotra, Advocate
for the appellants.

Mr. Rajbir Wasu, Advocate
for respondent no. 4-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Amritsar (later referred to as ‘the Tribunal’) for death of Satnam Singh (later referred to as ‘the deceased’), in a motor vehicle accident on 05.09.2004 with bus bearing registration no. PB-86-1435 (later referred to as ‘the offending vehicle’).

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

3. The Tribunal vide award dated 23.08.2006 awarded compensation of ₹3,42,000/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Satnam Singh
(ii)	Age of the deceased	32 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹2500

(iv)	Annual amount of compensation	(₹2500X12) = ₹30000
(v)	1/3rd of (iv) above deducted towards personal expenses	₹30000- ₹10000) = ₹20000 per annum
(vi)	Compensation calculated after applying the multiplier of 17	(₹20000X 17) = ₹340000
(vii)	Compensation for funeral expenses	₹2000
Total		**₹342000**

4. Learned counsel for appellants has argued that as per case of claimants, deceased-Satnam Singh was running a *kiryana* business, milk vendor business and was also doing agricultural farming. He was earning ₹9000/- from his *kiryana* shop, ₹10,000/- from dairy farming business and ₹5000/- from agriculture. Wife of the deceased while appearing as AW-1 has stated that her husband was earning ₹24,000/- from *kiryana* shop, milk vending and agricultural farming. He had left behind his wife, two minor daughters and mother. Rajwant Kaur and her minor son Gurpreet Singh, wife and son of Hardev Singh, pre-deceased brother of the deceased, were also dependent on him. She had also placed on file certificate issued by Gold Sweets, certifying that he was purchasing about 100 liters of milk from the deceased and his income from sale of milk was ₹10,800/- per month. Rajwant Kaur, sister-in-law of the deceased while appearing as PW-4 has stated that after death of her husband in the year 1999, the deceased was taking care of her and her son by giving them assistance of ₹6000/- per month. PW-5 Puran Singh, father of deceased had also deposed that the deceased was earning ₹20,000/- per month. Even he was spending ₹3000/- per month on his maintenance. The Tribunal equated the deceased with a daily wager and he was taken as labourer. His salary was taken as ₹2500/- per month, which is on lower side. Claimants are also entitled to addition in income of the deceased towards future prospects and compensation under the

conventional heads as per law laid down by Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***.

5. Learned counsel for respondent no. 4-Insurance Company has argued that though claimants have produced on file certificate of Gold Sweets regarding sale of milk by the deceased but it was not duly proved. Certificate of *sarpanch*, *Gram Panchayat* of village Mallian, placed on file by claimants was also not duly proved. In the absence of any evidence, the Tribunal has rightly taken income of the deceased as ₹2500/- per month. He has, however, not disputed the grant of addition in income of the deceased towards future prospects and compensation under the conventional heads as per law laid down in case of ***Pranay Sethi (supra)***.

6. The Tribunal equated the deceased with a daily wager while assessing his income as ₹2500/- per month. The deceased was going on a scooter when the accident took place. This shows status of the deceased at the time of accident was not of a daily wager. He could afford to go with his wife and children on a scooter. Claimants have placed on file certificate issued by one Gold Sweets and writing by *sarpanch* of the village regarding income of the deceased but the same were not duly proved. In case the deceased was earning ₹20,000/- per month, he was required to file income tax return. It is nowhere the case of claimants that the deceased was filing income tax return. The Tribunal has taken his income as ₹2500/- per month while equating him with a daily wager. The deceased was not only maintaining his family but he was also maintaining widow and son of his brother Hardev Singh. All this shows that the deceased was having enough income to take care of his dependents.

7. Keeping in view all these facts and circumstances, I am of the

opinion that income of the deceased as taken by the Tribunal is on lower side and the same is enhanced to ₹4500/- per month. As per law settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, claimants are entitled to 40% addition in income of the deceased towards future prospects. The accident had taken place in the year 2004 and keeping in view the price index prevailing at that time, a lump sum compensation of ₹50,000/- is allowed under the conventional heads i.e. loss of estate, loss of consortium and funeral expenses.

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

(i)	Monthly income of the deceased	₹4500 per month
(ii)	40% of (i) above added towards future prospects	(₹4500+ ₹1800)= ₹6300 per month
(iii)	1/4th of (ii) above deducted towards personal expenses	(₹6300- ₹1575) = ₹4725 per month
(iv)	Compensation calculated after applying the multiplier of 16 in view of age of the deceased	(₹4725X12X16) = ₹907200
(v)	Compensation towards loss of consortium, loss of estate and funeral expenses	₹50000
	Total	**₹957200**

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 **Satnam Singh** is enhanced from ₹3,42,000/- to ₹9,57,200/-. 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. 4-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 follows:-

(i)	Claimants no. 1 to 3	:	60% in equal share
(ii)	Claimants no. 4 to 6	:	40% in equal share

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 30, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

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