

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2345 of 2008 (O&M)  
Date of Decision : 30.04.2018

Mahender Singh and others .....Appellants  
  
Versus  
  
Tara Chand and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Ashish Yadav, Advocate  
for the appellants.  
  
Mr. Rohit Goswami, Advocate  
for Mr. D.P. Gupta, 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, Gurgaon (later referred to as ‘the Tribunal’) for death of Rakesh (later referred to as ‘the deceased’), in a motor vehicle accident on 10.10.2013 with Toyota Qualis bearing registration no. HR-55-AT-0194 (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 12.09.2007 awarded compensation of ₹1,54,000/- to claimants-appellants, which was computed as follows:-

|       |                                                            |          |
|-------|------------------------------------------------------------|----------|
| (i)   | Name of the deceased                                       | Rakesh   |
| (ii)  | Age of the deceased                                        | 19 years |
| (iii) | Monthly income of the deceased as assessed by the Tribunal | ₹2500    |

|              |                                                                                          |                                 |
|--------------|------------------------------------------------------------------------------------------|---------------------------------|
| (iv)         | ₹1000 of (iii) above deducted towards personal expenses                                  | ₹2500- ₹1000) = ₹1500 per month |
| (v)          | Compensation calculated after applying the multiplier of 8 as per age of claimant-father | (₹1500X12X8) = ₹144000          |
| (vi)         | Compensation for transportation and last rites                                           | ₹10000                          |
| <b>Total</b> |                                                                                          | <b>₹154000</b>                  |

4. Learned counsel for appellants has sought enhancement of compensation as awarded by the Tribunal as per law settled by Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**. He has argued that claimants are entitled to 40% addition in income of the deceased towards future prospects and compensation under the conventional heads as per observations of Hon'ble Apex Court in above referred case. The Tribunal computed amount of compensation for loss of dependency by applying multiplier of 8 as per age of one of the claimant while multiplier attracted in this case should have been as per age of the deceased, who was 19 years old.

5. Learned counsel for respondent no. 3 while not disputing the law settled by Hon'ble Apex Court in case of **Pranay Sethi (supra)** has argued that the Tribunal has made deduction of  $\frac{2}{5}^{\text{th}}$  from income of the deceased towards his personal expenses instead of  $\frac{1}{2}$  as per law settled by Hon'ble Apex Court in case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**.

6. Hon'ble Apex Court in case of **Pranay Sethi (supra)** has observed that multiplier is to be applied as per age of the deceased and claimants are entitled to 40% addition in income of the deceased, who was less than 40 years of age at the time of his death. Keeping in view the fact

that accident took place in the year 2003, claimants are allowed lump sum

compensation of ₹20,000/- for loss of estate and funeral expenses. As per law settled by Hon’ble Apex Court in case of *Sarla Verma (supra)*, which was further affirmed in case of *Pranay Sethi (supra)*, ½ income of the deceased, who was unmarried at the time of his death, is to be deducted towards his personal expenses.

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

|              |                                                                                            |                                     |
|--------------|--------------------------------------------------------------------------------------------|-------------------------------------|
| (i)          | Monthly income of the deceased as assessed by the Tribunal                                 | ₹2500 per month                     |
| (ii)         | 40% of (i) above added towards future prospects                                            | (₹2500+ ₹1000)=<br>₹3500 per month  |
| (iii)        | ½ of (ii) above deducted towards personal expenses                                         | (₹3500- ₹1750) =<br>₹1750 per month |
| (iv)         | Compensation calculated after applying the multiplier of 18 in view of age of the deceased | (₹1750X12X18) =<br>₹378000          |
| (v)          | Compensation towards loss of estate and funeral expenses                                   | ₹20000                              |
| <b>Total</b> |                                                                                            | <b>₹398000</b>                      |

7. 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 **Rakesh** is enhanced from **₹1,54,000/-** to **₹3,98,000/-**. 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.

8. 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  
jk

( SURINDER GUPTA)  
JUDGE

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*