

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2263 of 2010 (O&M)
Date of Decision : 18.04.2018

Rekha and othersAppellants

Versus

Rakesh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rishab Lohan, Advocate
for Mr. R.N. Lohan, Advocate
for the appellants.

Mr. Manvir Singh Rana, Advocate
for Mr. Pardeep Goyal, 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, Jind (later referred to as ‘the Tribunal’) for death of Rajesh (later referred to as ‘the deceased’), in a motor vehicle accident on 01.03.2008 with tractor bearing registration no. UP-14-S-4516 (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 12.12.2009 awarded compensation of ₹5,76,600/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Rajesh
(ii)	Age of the deceased	33 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹3900 per month
(iv)	1/4 th of (iii) above deducted towards personal expenses	(₹3900- ₹975) = ₹2925 per month

(v)	Compensation calculated after applying the multiplier of 16	(₹2925X12X16) = ₹561600
(vi)	Compensation for funeral expenses, loss of love and affection and loss of estate	₹10000
(vii)	Compensation for loss of consortium	₹5000
Total		₹576600

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 the deceased was 33 years of age, as such, claimants are entitled to 40% addition in his income towards future prospects alongwith compensation under the conventional heads.

5. Learned counsel for respondent no. 3 has not disputed the law as settled by Hon'ble Apex Court in case of **Pranay Sethi (supra)**.

6. As per award, the deceased was 33 years of age. 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 took place in the year 2008 and keeping in view price index prevailing in that year, claimants are allowed lump sum compensation of ₹50,000/- towards loss of consortium, loss of estate and funeral 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	₹3900 per month
(ii)	40% of (i) above added towards future prospects	(₹3900+ ₹1560)= ₹5460 per month
(iii)	1/4 th of (ii) above deducted towards personal expenses	(₹5460- ₹1365) = ₹4095 per month

(iv)	Compensation calculated after applying the multiplier of 16 in view of age of the deceased	(₹4095X12X16) = ₹786240
(v)	Compensation towards loss of consortium, loss of estate and funeral expenses	₹50000
Total		₹836240

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 **Rajesh** is enhanced from ₹5,76,600/- to ₹8,36,240/-. 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. Claimants will share the enhanced amount of compensation follows:-

- (i) Claimant no. 1 (wife) : 40%
- (ii) Claimants no. 2 to 4 (children) : 10% each
- (iii) Claimants no. 5 and 6 (parents): 15% each

9. Respondents no. 1 and 2 driver and owner of the offending vehicle will deposit the share of claimants no. 1, 2, 5 and 6 in their bank accounts or pay the same through demand draft. The share of claimants-respondents No. 3 and 4, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their name after the date of their attaining majority. The above direction has been issued to save claimants from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after minor claimant has attained age of majority.

Claimant no. 1-Smt. Rekha, being mother and natural guardian of minor claimants shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up.

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 18, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No