IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.3625 of 2012 (O&M)

Date of Decision: November 21, 2018.

Smt. Roshni Devi and others
..........APPELLANT(s).

VERSUS

Suresh Kumar and others
........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ajit Kumar Sharma, Advocate for
Mr. R.D. Yadav, Advocate
for the appellant (s).

Ms. Vandana Malhotra, Advocate
for respondent No.3-insurance company.

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<u>SURINDER GUPTA, J.</u>

Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the tribunal') vide award dated 01.05.2012 allowed compensation of ₹5,50,000/- for death of Surender, husband of appellant No.1 and father of appellants No.2 and 3, in a motor vehicle accident, which took place on 06.10.2010 with vehicle TATA-407 bearing registration No.HR-55D-2365.

As the only issue involved in this appeal relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

The compensation awarded by the tribunal was computed as follows:-

(i)	Name of the deceased	Surender Singh
(ii)	Age of the deceased	45 years
(iii)	Income of the deceased	₹4500 p.m.
(iv)	Deduction towards personal expenses @ 1/3	₹4500-1500=₹3000 p.m. i.e. ₹36000 p.a.
(v)	Multiplier applied 15	₹36000X15 = ₹540000/-
(vi)	Loss of consortium	₹5000/-
(vi)	Funeral expenses	₹5000/-
Total		₹5,50,000/-

Learned counsel for the appellants has argued that the deceased was 45 years of age. After his discharge from Army, he was having a poultry farm and two Maruti Vans and was using the same for commercial purposes, as he himself was a driver by profession. The tribunal has assessed his income as ₹4500/- per month, which is on lower side. While referring to the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009,*** he has argued that the appellants-claimants are entitled to addition of 25% in the income of the deceased towards future prospects and are also entitled to compensation of ₹15,000/- for loss of estate; ₹40,000/- for loss of consortium and ₹15,000/- towards funeral expenses.

Learned counsel for respondent-insurance company has conceded the grant of addition in the income of the deceased and compensation under the conventional heads, as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***. Regarding income of the deceased, she has argued that no evidence has been produced on file to prove income of the deceased. The claimants have not tendered in evidence any document to prove that deceased was running any poultry farm or owning a commercial vehicle. She has further argued that the tribunal has wrongly applied the multiplier of 15 instead of 14 in view of the settled proposition of law laid down by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121.***

Admittedly, the deceased was an ex-serviceman. His status can be taken as that of a highly skilled person. As per notification of Haryana Govt., minimum wages of highly skilled worker w.e.f. 01.07.2007 was ₹4998/- per month. The tribunal has taken his income as ₹4500/-, which was equivalent to minimum wages prescribed for semi-skilled worker. As such, income of the deceased is re-assessed as ₹5000/- per month. As per the observations in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra),*** claimants are also allowed 25% addition in the income of the deceased and ₹70,000/- under the conventional heads.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹5000 per month
(ii)	25% of above (i) to be added as future prospects	(₹5000 +₹1250)= ₹6250 per month
(iii)	Deduction of 1/3rd towards personal expenses of the deceased	(₹6250 -₹2083)= ₹4167 per month
(iv)	Compensation after multiplier of 14 is applied	(₹4167X12X14)= ₹700056
(v)	Loss of consortium	₹40000
(vi)	Loss of estate	₹15000
(vii)	Funeral expenses	₹15000
Total		₹7,70,056/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹5,50,000/- to ₹7,70,056/- for death of Surender

Singh. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants as follows:-

(i)	Appellant-claimant No.1-widow	: 60%
(ii)	Appellant-claimant No.2- Dinesh	: 20%
(iii)	Appellant-claimant No.3- Ashish Kumar	: 20%

Respondent-insurance company will deposit the shares of appellants-claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be apportioned equally amongst other surviving claimants.

(SURINDER GUPTA)
November 21, 2018. **JUDGE**
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No