

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**F.A.O. No.1106 of 2013 (O&M)
Date of Decision: 19.01.2018**

Mrs. Saroj Tripathi & others

....Appellant (s)

Versus

Piyar Chand & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. M.S. Sachdev, Advocate
for the appellants.

Ms. Manjari Joshi, Advocate
for respondent no.2.

Brig. B.S. Taunque, Advocate
for respondent no.3.

HARI PAL VERMA, J. (Oral)

Claimants have filed the present appeal seeking enhancement in the award dated 19.07.2012 passed by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as “the Tribunal”).

Briefly stated, claimants namely Saroj Tripathi (wife), Rajesh Kumar Tripathi and Manish Kumar Tripathi (sons) and Ms. Vandana Tripathi (daughter) had filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 on account of death of Ram Parkash Tripathi in a motor vehicular accident which took place on 07.12.2010. The deceased was 57 years of age as on the date of accident and being employed in

Indian Air Force was earning Rs.32,321/- per month. The claimants were dependent upon the income of the deceased.

The Tribunal while considering the age of the deceased as 57 years and applying the multiplier of '7', awarded compensation for an amount of Rs.15,25,000/-, which included Rs.10,000/- towards 'loss of consortium', to the claimant/appellants namely Saroj Tripathi (wife), Rajesh Kumar Tripathi (son), Manish Kumar Tripathi (sons), Ms. Vandana Tripathi (daughter) and also to respondent no.4-Seema, married daughter of the deceased.

Not satisfied with the aforesaid amount of compensation, the claimants have preferred the present appeal seeking enhancement.

Learned counsel for the appellants has stated that since Rajesh Kumar Tripathi son of the deceased is stated to be earning and not being a dependent upon the deceased, in any manner, he is not insisting his claim for compensation *qua* him. However, the Tribunal has wrongly assessed the income of the deceased, as the claimants are entitled to compensation by applying the multiplier of '9' instead of '7' in view of judgment of Hon'ble the Apex Court in the case of **Sarla Verma & Ors vs Delhi Transport Corp and another (2009) 6 SCC 121**. Similarly, no amount under the head 'future prospects' has been awarded in view of judgment of Hon'ble the Apex Court in the case of **National Insurance Co. Ltd vs. Pranay Sethi 2017(4) RCR (Civil) 1009**. He further submits that the claimants are also entitled to compensation under the conventional heads i.e. 'loss of estate and 'funeral expenses' and enhancement under the head 'loss of consortium'.

Learned counsel for the respondent-insurance company has not disputed the fact that while awarding the compensation, the Tribunal has not granted compensation towards ‘future prospects’ as per judgment of Hon’ble the Apex Court in the case of **National Insurance Co. Ltd vs. Pranay Sethi** (Supra). He has also not disputed the fact that after making deductions from the total salary of the deceased, the monthly income of the deceased was calculated at Rs.27,000/- for the purpose of calculation of compensation. He further submits that since the Tribunal has already awarded an amount of Rs.10,000/- towards of ‘loss of consortium’, only addition which can be made in the present appeal is Rs.60,000/- towards ‘future prospects’.

I have heard learned counsel for the parties and perused the impugned award.

There is no dispute that the Ram Parkash Tripathi died in a motor vehicular accident which took place on 07.12.2010 and the Tribunal while considering the age of the deceased as 57 years and applying the multiplier of 7, awarded compensation for an amount of Rs.15,25,000/-. However, in view of the law laid down by Hon’ble the Apex Court in the cases of **Sarla Verma & Ors vs Delhi Transport Corp and another** and **National Insurance Co. Ltd vs. Pranay Sethi** (Supra), this Court feels that the amount of compensation awarded to the claimants is required to be enhanced. Accordingly, with the assistance of the parties, following chart of admissible amount of compensation has been prepared:-

Monthly income (after deductions of income tax):		Rs.27,000/-
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Future prospects:	15%	Rs.4,050/-
Total monthly income:	Rs.27000+Rs.4050	Rs.31,050/-
Deductions (personal expenses of deceased)	1/4 th	Rs.7762.5
Net monthly income:	31050-7762.5	Rs.23,287.5
Annual income:	23,287.5x12	Rs.2,79,450/-
Multiplier Applied		9
Income after applying the multiplier	279450 x 9	Rs.25,15,050/-
Loss of estate		Rs.15,000/-
Loss of consortium		Rs.40,000/-
Funeral expenses		Rs.15,000/-
Total amount of compensation		Rs.25,85,050/-

There is no objection regarding the calculation made above for the amount of compensation by either of the parties. Since the claimants have already been disbursed an amount of Rs.15,25,000/-, the balance amount of Rs.10,60,050/- is further required to be paid to the claimants. Since Rajesh Kumar Tripathi, appellant no.2, is earning and Seema, respondent no.4, is married daughter of the deceased and therefore, both of them being not dependent upon the deceased, are not entitled to any amount from the enhanced amount of compensation.

Accordingly, the present appeal is allowed and the impugned award is modified to the extent that the claimants i.e. Saroj Tripathi (wife), Manish Kumar Tripathi (son) and Ms. Vandana Tripathi (daughter) shall be entitled to an amount of Rs.10,60,050/- over and above the amount already

awarded to them by the Tribunal. It is further ordered that this enhancement shall fetch interest @ 7.5% per annum from the date of filing the claim petition till its realization.

January 19, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No