IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.3217 of 2013 (O&M)
Date of Decision: April 02, 2018.

Rakha and others

..........APPELLANT(s).

VERSUS

Karnail Singh and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Namit Sharma, Advocate
for the appellant (s).

Mr. Rajan Bhargava, Advocate for
Mr. Vishal Aggarwal, Advocate
for respondent No.5-insurance company.

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

Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the tribunal') vide award dated 20.02.2013 allowed compensation of ₹4,26,000/- for death of Bhupinder Singh alias Binder husband of appellant No.1 and father of appellants No.2 and 3 in a motor vehicle accident with Motor-cycle bearing registration No.HR-40B-4533.

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 was computed as follows:-

(i)	Name of the deceased	Bhupinder Singh @ Binder
(ii)	Age of the deceased	33 years

(iii)	Income of the deceased	₹3200 p.m.
(iv)	Deduction towards personal expenses	₹3200-1060=₹2140 p.m.
(v)	Multiplier applied 16	₹2140X12X16 = ₹410880/-
(vi)	Funeral and last rites	₹5000
(vii)	Loss of consortium	₹10000
Total		₹4,25,880/-

Learned counsel for the appellants has claimed enhancement of compensation on two scores as per law settled by 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 deceased was 33 years of age and was an agriculturist. The claimants are entitled to addition of 40% in the income of the deceased towards future prospects and adequate compensation under conventional heads.

Learned counsel for respondent-insurance company, though could not rebut the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)*** but has argued that the accident in this case took place on 01.11.2009 and this fact be taken care while awarding compensation under the conventional heads as the Hon'ble Apex Court has directed the increase of amount of compensation by 10% after the expiry of 3 year, as such, it is also to be reduced on the same terms.

As per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra),*** the claimants are entitled to 40% addition in the income of the deceased towards future prospects. Keeping in view the fact that the accident had taken place in the year 2009, claimants are awarded compensation of ₹60000/- towards funeral expenses loss of consortium and loss of estate.

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	₹3200 per month
(ii)	40% of above (i) to be added as future prospects	(₹3200+₹1280)= ₹4480 per month
(iii)	Deduction of 1/3rd towards personal expenses of the deceased	(₹4480-₹1493)= ₹2987 per month
(iv)	Compensation after multiplier of 16 is applied	(₹2987X12X16)= ₹573504
(v)	Loss of consortium, loss of estate and funeral expenses.	₹60000
Total		₹6,33,504/-

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 ₹4,25,880/- to ₹6,33,504/- for death of Bhupinder Singh alias Binder. 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 the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants as follows:-

(1) Appellant No.1-widow of deceased : 40%

(2) Appellants No.2 and 3 (minor children) : 30% each

Respondent No.3-insurance company will deposit the shares of appellant-claimant, who is/are major, in their bank accounts or pay the same through demand drafts. The share of minor appellants-claimants, if any, will be deposited in some nationalised bank as fixed deposits till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minors as required at the time of deposit of the amount and the minors shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in their names after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal.

(SURINDER GUPTA)
JUDGE

April 02, 2018.
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No