

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1435 of 2015 (O&M)
Date of Decision : 10.01.2018

Sabir and another

.....Appellants

Versus

Mohd. Yahya and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashish Gupta, Advocate
 for the appellants.

Mr. R.S. Sharma, Advocate
 for respondent no. 2-Insurance Company.

Surinder Gupta, J.

The Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 21.11.2014 allowed compensation of ₹73000 for death of Rujdar, grandfather of claimant-appellant no. 1 and father of claimant-appellant no. 2 in a motor vehicle accident with motorcycle bearing registration no. HR-28/E-1935 (later referred to as 'the offending vehicle').

2. As per case of claimants, Rujdar (deceased) was going with his grandson Sabir (appellant no. 1) to *karyana* shop at Wazidpur Chowk, when he was hit from behind by the offending vehicle, which was being driven by respondent no. 1-Mohd. Yahya in a rash and negligent manner. The Tribunal by accepting the plea of claimants allowed compensation for death of Rujdar in a motor vehicle accident, which was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Rujdar
(ii)	Age of the deceased	75 years
(iii)	Monthly income of the deceased	₹2000
(iv)	1/3 rd of (iii) above deducted towards personal expenses	₹2000- ₹667) = ₹1333

(v)	Compensation calculated after applying the multiplier of 3	(₹1333X12X3) = ₹47988
(vi)	Funeral expenses	₹25000
Total		₹72988 (rounded off to ₹73000)

3. Learned counsel for claimants-appellants submits that the deceased was hale and hearty person of the age of 75 years. Income of the deceased as assessed by the Tribunal as ₹2000/- per month is on lower side. The multiplier applied is also not as per observations of Hon’ble Apex Court in case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121.**

4. Learned counsel for respondent no. 2-Insurance Company submits that the deceased was not an earning hand rather he was dependent on claimants-appellants. The Tribunal has rightly taken his notional income as ₹2000/- per month and has applied the multiplier of 3 while computing amount of compensation. As per observations of Hon’ble Apex Court in case of ***Sarla Verma (supra)***, multiplier of 5 can be applied for the deceased upto the age of 70 years. The multiplier of 3 applied in this case while computing amount of compensation is quite appropriate.

5. The deceased was 75 years of age. There is nothing on record that he was suffering from any ailment. Even if there is no evidence regarding income of the deceased but this fact cannot be ignored that even an old person renders services to family. He is not only looking after the household jobs but also giving care, attention and advice in all the matters. Income of a person of this age, in the absence of any evidence on record, can be assessed keeping in view services rendered by him. I am of the opinion that monthly income of the deceased as assessed by the Tribunal as ₹2000/- requires to be enhanced to ₹2500/- per month. When the income is assessed on account of services

rendered by a person, it calls for no deduction to be made.

6. As per observations of National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, claimants-appellants are also entitled to compensation of ₹15000/- towards funeral expenses.
7. In view of my above discussion, compensation to which claimants are entitled is reassessed as follows:-

Sr. No.	Heads	Calculation
(i)	Name of the deceased	Rujdar
(ii)	Age of the deceased	75 years
(iii)	Monthly income	₹2500
(iv)	Amount of dependency after multiplier of 3 is applied	(₹2500X12X3) = ₹90000 per annum
(v)	Compensation for funeral expenses	₹15000
Total		₹1,05,000/-

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 Rujdar is enhanced from ₹73000/- to ₹1,05,000/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the claim petitions till actual realization. Respondent no. 2-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.

January 10, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No