IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**FAO No. 2198 of 2014 (O&M)**
**Date of Decision : 02.05.2018**

Meena Aggarwal others ....Appellants

Versus

Sunita Rani and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Saurabh Kapoor, Advocate
for Mr. Ashit Malik, Advocate
for the appellants.

Mr. Satpal Dhamija, Advocate
for respondent no. 4-Insurance Company.

**Surinder Gupta, J. (Oral)**

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Kurukshetra (later referred to as 'the Tribunal') for death of Ramesh Kumar Aggarwal (later referred to as 'the deceased'), in a motor vehicle accident on 08.07.2012 with vehicle bearing registration no. HR-07-N-0149 (later referred to as 'the offending vehicle').

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

3. The Tribunal vide award dated 24.04.2013 awarded compensation of ₹15,41,088/- to claimants-appellants, which was computed as follows:-

| | | |
|---|---|---|
| (i) | Name of the deceased | Ramesh Kumar Aggarwal |
| (ii) | Age of the deceased | 50 years |
| (iii) | Monthly income of the deceased as assessed by the Tribunal | ₹17000 |

| | | |
|---|---|---|
| (iv) | 1/3rd of (iii) above deducted towards personal expenses | ₹17000- ₹5666) = ₹11334 per month |
| (v) | Compensation calculated after applying the multiplier of 11 | (₹11334X12X11) = ₹1496088 |
| (vi) | Compensation for loss of estate | ₹10000 |
| (vii) | Compensation for loss of consortium | ₹20000 |
| (viii) | Compensation for funeral expenses | ₹10000 |
| (ix) | Compensation for transportation | ₹5000 |
| ***Total*** | | **₹1541088** |

4. Learned counsel for appellants has argued that the deceased was 50 years of age. The Tribunal while calculating amount of compensation has applied multiplier of 11 while for the age group less than 51 years, multiplier applicable is 13. 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***, claimants are entitled to 10% addition in income of the deceased towards future prospects. The Tribunal while calculating amount of compensation has taken note of income of the deceased as shown in income tax return, which was calculated as ₹17,320/- per month but the same was wrongly rounded off to ₹17,000/- per month. The Tribunal should have taken income of the deceased as shown in income tax return while computing the amount of compensation for loss of income.

5. Learned counsel for respondent no. 4 has not disputed the law as settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)*** with regard to grant of multiplier and future prospects. He has, however, submitted that income of the deceased was rightly rounded off while calculating amount of compensation.

6. The Tribunal has taken note of income tax return placed on file as Ex. P-3, in which annual income of the deceased was mentioned as ₹2,07,843/-. The Tribunal bifurcated the said income and calculated monthly

income of the deceased as ₹17,320/- and then rounded it off to ₹17,000/- per month. Above approach of the Tribunal cannot be justified as the Tribunal could round of annual income of the deceased as mentioned in income tax return. Reducing income of the deceased by ₹320/- per month has resulted in loss of ₹49920/- (₹320X12X13) to claimants. Income of the deceased as mentioned in income tax return is rounded off to ₹2,07,845/- per annum and after allowing 10% addition in income of the deceased towards future prospects; applying the multiplier of 13; and awarding compensation of ₹70,000/- under the conventional heads of loss of consortium, loss of estate and funeral expenses, the compensation to which claimants are entitled is reassessed as follows:-

| | | |
|---|---|---|
| (i) | Annual income of the deceased | ₹207845 per annum |
| (ii) | 10% of (i) above added towards future prospects | (₹207845+ ₹20785)= ₹228630 per annum |
| (iii) | $1/3^{rd}$ of (ii) above deducted towards personal expenses | (₹228630- ₹76210) = ₹152420 per month |
| (iv) | Compensation calculated after applying the multiplier of 13 in view of age of the deceased | (₹152420X13) = ₹1981460 |
| (v) | Compensation towards loss of consortium | ₹40000 |
| (vi) | Compensation towards loss of estate | ₹15000 |
| (vii) | Compensation towards funeral expenses | ₹15000 |
| ***Total*** | | **₹2051460** |

7. 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 Ramesh Kumar Aggarwal is enhanced from **₹15,41,088/-** to **₹20,51,460/-**. 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. Respondent no. 4-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. Claimants will share the enhanced amount of compensation as per award.

8. 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.

**May 02, 2018** **( SURINDER GUPTA)**
jk **JUDGE**

*Whether speaking/reasoned* *Yes/No*
*Whether reportable* *Yes/No*