

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3921 of 2013 (O&M)
Date of Decision : 12.03.2018

Smt. Susheela and another

.....Appellants

Versus

Shamsher Ali and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vikas Kumar, Advocate
for the appellants.

Mr. A.S. Sidhu, Advocate with
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Faridabad (later referred to as ‘the Tribunal’) for death of Hemant (later referred to as ‘the deceased’), in a motor vehicle accident on 11.02.2011 with truck bearing registration no. HR-38-J-0924 (later referred to as ‘the offending vehicle’).

2. As the only issue involved in this appeal is enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.
3. The Tribunal vide award dated 03.04.2013 awarded compensation of ₹3,42,000/- to claimants-appellants, which was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Hemant
(ii)	Age of the deceased	20 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹4000

(iv)	½ of (iii) above deducted towards personal expenses	₹4000- ₹2000) = ₹2000 per month
(v)	Compensation calculated after applying the multiplier of 13 in view of age father of the deceased	(₹2000X12X13) = ₹312000
(vi)	Compensation for loss of love and affection	₹20000
(vii)	Compensation for last rites	₹10000
Total		₹342000

4. Learned counsel for appellants has argued that the deceased son of appellants was employed with M/s Dream Season, Tour and Travels, Faridabad and was getting salary of ₹6000/- per month. Rajat Seth, Accountant of above concern was examined as PW-4 to prove that the deceased was getting salary of ₹6000/- but the Tribunal has discarded his statement and taken salary of the deceased as ₹4000/- per month, which was less than the minimum wages prescribed for a skilled worker. The deceased was a diploma holder in Computer Applications and Programming from F-Tech. Computer Education, as such, his salary could not be taken less than a skilled worker. He has further argued that 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 40% addition in income of the deceased towards future prospects and the multiplier attracted while computing amount of compensation is age of the deceased and not the age of claimants, which has been applied by the Tribunal.

5. Learned counsel for respondent no. 3-Insurance Company while not disputing the law settled by Hon'ble Apex Court in case of **Pranay Sethi (supra)** regarding grant of addition in income of the deceased towards future prospects and application of multiplier as per age of the deceased, has argued that income of the deceased was rightly taken by the Tribunal.

Statement of PW-4 Rajat Seth, the alleged accountant of M/s Dream Season Tour and Travels was rejected by the Tribunal as he has not produced any record of employees and salary certificate (Ex. P-8) produced by him was not found to be a genuine document. The Tribunal while discarding statement of PW-4 Rajat Seth, who proved income of the deceased as ₹6000/- per month has observed as follows:-

“12.his testimony does not inspire confidence which is clear from the fact that firstly, in his cross-examination, he stated that his firm is having no record of employees; secondly, though he stated that he is working as Accountant, but a perusal of Salary Certificate (Ex. P8) shows that he had put signatures as partner of firm which goes to show that he is not trustworthy witness. Thus, the claimants have failed to prove that their deceased son was working with M/s Dream Season Tour and Travels, E-34, 2nd floor, Nehru Ground, NIT, Faridabad and was getting salary of ₹6000/- per month.....”

6. It is not disputed that the deceased was a young man and qualified person, having done his diploma in computer applications and programming. His salary can be well equated with minimum wages prescribed for a skilled worker by Labour Commissioner, Haryana in the year 2011, which was ₹5022.98 ps. for Skilled (B) category of employees. Keeping in view above minimum wages as prescribed by the State of Haryana, salary of the deceased can be safely taken as ₹5000/- per month.

Claimants are also entitled to 40% addition in income of the deceased

towards future prospects and the multiplier attracted while computing amount of compensation towards loss of dependency is 18 and not 13 as applied by the Tribunal. Keeping in view the fact that the accident had taken place in the year 2011, claimants are allowed a lump sum amount of ₹20,000/- towards funeral expenses and loss of estate.

7. In view of my above discussion, compensation to which claimants-appellants are entitled, is computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Hemant
(ii)	Age of the deceased	20 years
(iii)	Monthly income of the deceased	₹5000 per month
(iv)	40% of (iii) above added towards future prospects	(₹5000+ ₹2000)= ₹7000/- per month
(v)	½ of (iv) above deducted towards personal expenses	(₹7000- ₹3500) = ₹3500 per month
(vi)	Compensation calculated after applying the multiplier of 18 in view of age of the deceased	(₹3500X12X18) = ₹756000
(vii)	Compensation towards funeral expenses and loss of estate	₹20000
<i>Total</i>		₹776000

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 Hemant is enhanced from ₹3,42,000/- to ₹7,76,000/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of instant appeal till actual realization. Respondent no. 3-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 equally share the enhanced amount of compensation.

9. 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.

March 12, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No