

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4037 of 2013 (O&M)
Date of Decision : 20.03.2018

Pushpa Rani @ Sweety and others

....Appellants

Versus

Manjinder Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.S. Cooner, Advocate
for the appellants.

None for respondent no. 1.

Mr. R.C. Gupta, Advocate
for respondent no. 4-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Sangrur (later referred to as 'the Tribunal') for death of Ramesh Kumar (later referred to as 'the deceased'), in a motor vehicle accident on 21.06.2011 with tractor trolley bearing registration no. HR-01-A-1388 (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 09.04.2013 awarded compensation of ₹4,07,000/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Ramesh Kumar
(ii)	Age of the deceased	40 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹3000

(iv)	1/4 th of (iii) above deducted towards personal expenses	₹3000- ₹750) = ₹2250 per month
(v)	Compensation calculated after applying the multiplier of 15	(₹2250X12X15) = ₹405000
(vi)	Compensation for funeral expenses	₹2000
Total		₹407000

4. Learned counsel for appellants has argued that the deceased was working as building contractor and was also maintaining a vehicle (Tavera bearing registration no. PB-09-F-7272). Claimants, who are widow, minor children and mother of the deceased, could not produce any evidence regarding income of the deceased and Tribunal has taken the deceased as a daily wager and assessed his income as ₹3000/- per month, which is even far below than the minimum wages prescribed for a skilled worker. He has further argued that claimants are also entitled to addition of 25% in income of the deceased towards future prospects besides compensation on conventional heads 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.**

5. Learned counsel for respondent no. 4-Insurance Company has argued that claimants could not produce any evidence regarding income of the deceased or that he was owner of Tavera car, as such, the Tribunal has rightly taken his income as ₹3000/- per month keeping in view the price index at that time. The compensation awarded is reasonable and calls for no enhancement.

6. As per case of claimants, the deceased was going in his Tavera vehicle bearing registration no. PB-09-F-7272 from Sangrur to Jwalapur (Haridwar), when he was hit by the offending vehicle. Accident is admitted

in the reply filed by owner and driver of the offending vehicle, who have

alleged that the accident took place due to rash and negligent driving of Tavera vehicle by the deceased. CW-2 Dharam Pal, who is eye-witness of the accident, has deposed that the deceased was going on his Tavera, which was hit by the offending vehicle resulting in his death at the spot. He has further stated that the deceased was earning ₹20,000/- per month and was also maintaining his Tavera vehicle. To similar effect is the statement of Pushpa Rani, wife of the deceased. The Tribunal has also believed version of claimants that the deceased was driving his Tavera vehicle at the time of accident. Testimonies of CW-2 Dharam Pal and CW-1 Pushpa Rani regarding profession of the deceased as building contractor and ownership of Tavera Vehicle bearing registration no. PB-09-F-7272 was discarded in the absence of any evidence to this effect and his income was taken as that of a daily wager. Here, the Tribunal has committed grave error. Even if claimants have not produced any documentary evidence regarding vocation of the deceased and about his ownership of vehicle still their statements cannot be discarded regarding his vocation. From the testimony of wife of the deceased and CW-2 Dharam Pal, eye-witnesses of the accident, it is proved that the deceased was a building contractor but his income was not proved on recorded by any documentary evidence. Even in the absence of any evidence regarding income of the deceased, the same can be equated with minimum wages prescribed for highly skilled labourer by Labour Commissioner, Punjab. As on 01.03.2011, minimum wages for highly skilled worker in Punjab were ₹5017/-. Applying this yardstick, income of the deceased can be safely taken as ₹5000/- per month. Claimants are also entitled to 25% addition in income of the deceased towards future prospects besides compensation of ₹70,000/- on conventional heads as per law settled by

Hon'ble Apex Court in case of ***Pranay Sethi (supra)***.

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

(i)	Monthly income of the deceased	₹5000 per month
(ii)	25% of (i) above added towards future prospects	(₹5000+ ₹1250)= ₹6250/- per month
(iii)	1/4 th of (ii) above deducted towards personal expenses	(₹6250- ₹1562) = ₹4688 per month
(iv)	Compensation calculated after applying the multiplier of 15	(₹4688X12X15) = ₹843840
(v)	Compensation towards loss of consortium	₹40000
(vi)	Compensation towards loss of estate	₹15000
(vii)	Compensation towards funeral expenses	₹15000
Total		₹913840 (rounded off to ₹913800)

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 Ramesh Kumar is enhanced from ₹4,07,000/- to ₹9,13,800/-. 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. 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 share the enhanced amount of compensation as follows:-

- (i) Claimant no. 1 (wife) : 40%
- (ii) Claimants no. 2 & 3 (children) : 20% each
- (iii) Claimant no. 4 (mother) : 20%

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 20, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No