

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4051 of 2013 (O&M)  
Date of Decision : 20.03.2018

Roshni Devi and others .....Appellants

Versus

Anil Kumar and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gurinder Pal Singh, Advocate  
for the appellants.

Ms. Rohini Bedi, Advocate  
for Mr. Vishal Goel, Advocate  
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, Rewari (later referred to as ‘the Tribunal’) for death of Rajpal (later referred to as ‘the deceased’), in a motor vehicle accident on 23.06.2010 with truck bearing registration no. HR-47-A-9054 (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 04.04.2011 awarded compensation of ₹4,51,800/- to claimants-appellants, which was computed as follows:-

|       |                                                                     |                                 |
|-------|---------------------------------------------------------------------|---------------------------------|
| (i)   | Name of the deceased                                                | Rajpal                          |
| (ii)  | Age of the deceased                                                 | 42 years                        |
| (iii) | Monthly income of the deceased as assessed by the Tribunal          | ₹3900                           |
| (iv)  | 1/3 <sup>rd</sup> of (iii) above deducted towards personal expenses | ₹3900- ₹1300) = ₹2600 per month |
| (v)   | Compensation calculated after applying the multiplier of 14.        | (₹2600X12X14) = ₹436800         |
| (vi)  | Compensation for loss of estate                                     | ₹5000                           |

|              |                                     |                |
|--------------|-------------------------------------|----------------|
| (vii)        | Compensation for loss of consortium | ₹5000          |
| (viii)       | Compensation for funeral expenses   | ₹5000          |
| <b>Total</b> |                                     | <b>₹451800</b> |

4. Learned counsel for appellants has argued that the deceased was 42 years of age at the time of his death and was earning ₹10,000/- per month being agriculturist. The Tribunal has assessed his income as ₹3900/- per month. 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 25% addition in income of the deceased towards future prospects and also compensation on conventional heads like loss of estate, loss of consortium and funeral expenses.

5 Learned counsel for the respondent while not disputing the grant of compensation as per law laid down by Hon’ble Apex Court in case of Pranay Sethi (supra), has argued that in the absence of any evidence on record regarding income of the deceased, the Tribunal has rightly assessed income of the deceased as ₹3900/- per month.

6 Keeping in view the fact that accident had taken place in the year 2010 and claimants have not proved any evidence regarding land owned or occupied by the deceased and his income, I find no reason to differ with learned Tribunal on the quantum of income of deceased as assessed by the Tribunal. Claimants are allowed compensation of ₹30,000/- towards loss of consortium, ₹10,000/- towards loss of estate and ₹10,000/- towards funeral expenses.

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

|     |                                                            |                 |
|-----|------------------------------------------------------------|-----------------|
| (i) | Monthly income of the deceased as assessed by the Tribunal | ₹3900 per month |
|-----|------------------------------------------------------------|-----------------|

|              |                                                                    |                                     |
|--------------|--------------------------------------------------------------------|-------------------------------------|
| (ii)         | 25% of (i) above added towards future prospects                    | (₹3900+ ₹975)=<br>₹4875/- per month |
| (iii)        | 1/3 <sup>rd</sup> of (ii) above deducted towards personal expenses | (₹4875- ₹1625) =<br>₹3250 per month |
| (iv)         | Compensation calculated after applying the multiplier of 14        | (₹3250X12X14) =<br>₹546000          |
| (v)          | Compensation towards loss of consortium                            | ₹30000                              |
| (vi)         | Compensation towards loss of estate                                | ₹10000                              |
| (vii)        | Compensation towards funeral expenses                              | ₹10000                              |
| <b>Total</b> |                                                                    | <b>₹596000</b>                      |

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 Rajpal is enhanced from ₹4,51,800/- to ₹5,96,000/-. 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) : 50%
- (ii) Claimant no. 2 (son) : 30%
- (iii) Claimant no. 3 (father) : 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*