IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4076 of 2014 (O&M)
Date of Decision : 27.03.2018

Ranjodh Singh and another ....Appellants

Versus

Kuljit Singh and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vaibhav Sehgal, Advocate
for the appellants.

Mr. Rajan Bhargava, Advocate
for Mr. Vishal Aggarwal, 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, Ludhiana (later referred to as 'the Tribunal') for death of Harpreet Kaur (later referred to as 'the deceased'), in a motor vehicle accident on 02.09.2008 with Scorpio vehicle bearing registration no. DL-4-CNB-0576 (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 24.08.2012 awarded compensation of ₹6,76,890/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Harpreet Kaur
(ii)	Annual income of the deceased after deducting standard deduction from her gross income	₹132378
(iii)	½ of (iii) above deducted towards personal expenses	₹132378- ₹66189) = ₹66189 per annum
(iv)	Compensation calculated after applying the multiplier of 10	(₹66189X10) = ₹661890

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(v)	Compensation for transportation and funeral expenses	₹5000
(vi)	Compensation for loss of consortium	₹10000
Total		**₹676890**

4. Learned counsel for appellants has argued that the Tribunal while computing income of the deceased as per her annual income tax statement has deducted amount of standard deduction from her income. Standard deduction is part of income, which is eligible for deduction while computing the income tax. The Tribunal has committed grave error while deducting this amount from income of the deceased. The Tribunal has deducted 50% of income of deceased towards her personal expenses with the observation that her husband was also a Government Servant, as such, was not dependant on her. As per law settled by Hon'ble Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, deduction which could be made in this case is 1/3rd of income of the deceased. The Tribunal has applied multiplier of 10 instead of 17 keeping in view age of the deceased, who was 30 years old at the time of her death. Compensation awarded by the Tribunal for funeral expenses and loss of consortium is also on lower side while no compensation was allowed towards loss of estate.

5. Learned counsel for respondent no. 3-Insurance Company has argued that the Tribunal has taken carry home income of the deceased after standard deduction while computing her income. The husband of the deceased being a Government employee was not dependant on her, as such, the deceased has left behind only a minor daughter, as such, the Tribunal has rightly deducted 50% of her income towards her personal expenses. However, he has not contested the grant of compensation towards future prospects, applicability of multiplier as per age of the deceased and grant of compensation towards

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conventional heads. He has, however, submitted that the accident had taken place in the year 2008 and this fact may be kept in view while awarding compensation under 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***.

6. The Tribunal has taken note of the fact that gross income of the deceased at the time of her death was ₹1,56,030/-. In the financial year 2008-2009, income of women to the tune of ₹1,80,000/- was exempted from any income tax, as such, entire income of deceased was exempted from income tax. Amount exempted under standard deduction is part of income and the Tribunal has committed error while taking income of the deceased after reducing amount of standard deduction of ₹23,652/- from her total income. For the purpose of computing amount of compensation, total income of the deceased i.e. ₹1,56,030/-, is to be taken as her income.

7. The Tribunal has applied deduction of 50% of income of the deceased towards her personal expenses with the observation that her husband was also a Government Servant, as such, was not dependant on her. This observation of Tribunal is not tenable. In case, where both the spouses are earning hand, it does not mean that each spouse is spending 50% of income towards his personal expenses. When income is more, they spend it for better education and for providing facilities to their children and family. They also spend their earning for other purposes like purchasing the house; other infrastructure for the family; and for saving for future instead of spending 50% of their income on themselves. The deceased has left behind her husband and minor child and as per law settled by Hon'ble Apex Court in case of ***Sarla Verma (supra)***, 1/3rd income of the deceased could be deducted towards her

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personal expenses. In view of law settled by Hon'ble Apex Court in case of ***Pranay Sethi***, claimants are also entitled to 40% addition in income of the deceased towards future prospects and while computing the amount of compensation for loss of dependency. Age of deceased was admittedly 30 years, as such, the multiplier attracted is 17 and not 10 as applied by the Tribunal. The accident had taken place in the year 2008 and keeping in view this fact claimants are allowed compensation of ₹10,000/- towards funeral expenses, ₹30,000/- towards loss of consortium and ₹10,000/- towards loss of estate.

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

(i)	Annual income of the deceased as assessed by the Tribunal	₹156030 per month
(ii)	40% of (i) above added towards future prospects	(₹156030+ ₹62412)= ₹218442 per month
(iii)	1/3rd of (ii) above deducted towards personal expenses	(₹218442- ₹72814) = ₹145628 per annum
(iv)	Compensation calculated after applying the multiplier of 17 in view of age of the deceased	(₹145628X17) = ₹2475676
(v)	Compensation towards loss of consortium	₹30000
(vi)	Compensation towards loss of estate	₹10000
(vii)	Compensation towards funeral expenses	₹10000
Total		**₹2525676 (rounded off to ₹2525680)**

9. 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 Harpreet Kaur is enhanced from ₹6,76,890/- to ₹25,25,680/-. 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

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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)	Appellant no. 1	:	25%
(ii)	Appellant no. 2	:	75%

10. The share of claimants-appellants No. 2, who is minor, will be deposited in some nationalized bank as fixed deposit till the period she attains majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and she shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in her name after the date of her attaining majority. The above direction has been issued to save claimant from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after attaining the age of majority. Claimant-appellant no. 1-Ranjosh Singh, being father and natural guardian of minor claimant shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per his convenience to meet expenses of her brought up.

11. 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 27, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

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

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