IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1503 of 2016 (O&M)
Date of Decision : 07.03.2018

Jaswinder Kaur and others .....Appellants

Versus

Naresh Kumar and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ishaan Cooner, Advocate for the appellants.

None for respondents no. 1 and 2.

Ms. Vandana Malhotra, Advocate for respondent no. 3.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Panchkula (later referred to as 'the Tribunal') for death of Gurjent Singh (later referred to as 'the deceased'), in a motor vehicle accident on 22.06.2014 with Canter bearing registration no. HR-58-A-0823 (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. Learned counsel for appellants has sought enhancement of compensation on two grounds. Firstly, that the deceased was in the age group of 36 to 40 years and 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. He has, however, argued that the deceased has left behind four dependants i.e. wife, two children and mother.

Father of the deceased had already died, as such, mother was dependant on him. The Tribunal has made deduction of 1/3rd from income of the deceased towards his personal expenses instead of 1/4th as per law laid down by Hon'ble Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***.

4. Hon'ble Apex Court in case of ***Pranay Sethi (supra)*** has observed that claimants are to be allowed 40% addition in income of the deceased in a motor accident case towards his future prospects, who were less than 40 years of age and were in private employment or self employed. The deceased has left behind four dependants, as such, 1/4th of his income could be deducted towards his personal expenses. The Tribunal has, however, allowed ₹1 lakh as compensation towards loss of consortium and ₹25,000/- towards funeral expenses, which is to be confined to ₹40,000/- and ₹15,000/-, respectively as per observations of Hon'ble Apex Court in case of ***Pranay Sethi (supra).*** Claimants are also entitled to compensation of ₹15,000/- towards loss of estate.

5. In view of above, the compensation to which claimants are entitled is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Gurjent Singh
(ii)	Age of the deceased	38 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹11700 per month
(iv)	40% of (iii) above added towards future prospects	(₹11700+ ₹4680)= ₹16380/- per month
(v)	1/4th of (iv) above deducted towards personal expenses	(₹16380- ₹4095) = ₹12285 per month
(vi)	Compensation calculated after applying the multiplier of 15 in view of age of mother of the deceased	(₹12285X12X15) = ₹2211300

(vii)	Compensation for loss of estate	₹15000
(viii)	Compensation for funeral expenses	₹15000
(ix)	Compensation for loss of consortium	₹40000
Total		**₹2281300**

6. 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 Gurjent Singh is enhanced from ₹15,29,000/- to ₹22,81,300/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of instant appeal till actual realization. Respondents no. 1 and 2, owner and driver 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 amount of compensation as follows:-

(i)	Appellant no. 1 (wife)	:	50%
(ii)	Appellants no. 2 and 3 (children)	:	15% each
(iii)	Appellants no. 4 (mother)	:	20%

7. The share of claimants-appellants No. 2 and 3, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain 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 they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in his names after the date of their attaining majority. The above direction has been issued to save claimants 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 no. 1-Rashmi, being mother and natural guardian of minor claimants shall be entitled to get interest on the share of minor

deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up.

8. In the event of demise of any of the claimants before or after passing of this order, compensation of his/her share shall be paid to surviving claimants.

March 07, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

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