

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.166 of 2016 (O&M)
Date of Decision: January 24, 2018.

Nirmala and others

.....APPELLANT(s).

VERSUS

Ramji Singh and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Anil Kumar Gehlawat, Advocate
for the appellant (s).

Mr. D.R. Bansal, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the tribunal') vide award dated 05.08.2015 allowed compensation of ₹13,97,000/- for death of Birender Singh, husband of appellant No.1, father of appellants No.2 to 4, in a motor vehicle accident with Tralla bearing registration No. NL-01K-7532.

As the only issue involved in this appeal relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

The compensation awarded was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Birender Singh
(ii)	Age of the deceased	36 to 40 years
(iii)	Income of the deceased	₹7200 p.m.
(iv)	Deduction towards personal expenses	₹7200-₹1800=₹5400 p.m. i.e. ₹64800 p.a.

(v)	Multiplier applied 15	₹64800X 15 = ₹972000/-
(vi)	Loss of consortium	₹100000/-
(vii)	Loss of care and guidance of minor children (₹100000/- each)	₹300000/-
(viii)	Funeral and last rites	₹25000/-
<i>Total</i>		₹13,97,000/-

Learned counsel for the appellants has argued that the deceased was self employed and claimants are entitled to addition of 40% in the income of the deceased towards future prospects and are also entitled to compensation of ₹40,000/- for loss of consortium and ₹15,000/- towards funeral expenses as per the observations in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009.***

Learned counsel for insurance company though has not conceded the submissions of learned counsel for the appellants but could not rebut the same in view of the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***. He has, however, argued that the claimants are not entitled any compensation for loss of care and guidance of minor children and the compensation already awarded by the tribunal towards loss of consortium and funeral expenses is on higher side, if the law laid down by Hon'ble Apex Court in the above cited case is applicable.

Taking note of the observations in the aforesaid case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***, the compensation to which the claimants are entitled, is computed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹7200 per month
(ii)	Deduction of 1/4 th towards personal expenses of the deceased	(₹7200-₹1800)= ₹5400 per month
(iii)	40% of above (ii) to be added as future prospects	(₹5400+₹2160)= ₹7560 per month
(iv)	Compensation after multiplier of 15 is applied	(₹7560X12X15)= ₹1360800/-
(v)	Loss of consortium	₹40000
(vi)	Funeral expenses	₹15000
<i>Total</i>		₹14,15,800/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹13,97,000/- to ₹14,15,800/- for death of Birender Singh. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants as follows:-

- (1) Appellant No.1-widow of the deceased

:

40%
- (2) Appellants No.2 to 4-children of deceased

:

20% each

Respondent No.3-insurance company will deposit the shares of appellants-claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant(s), his/her share of compensation shall be apportioned equally amongst other surviving claimants. The counsel fee is assessed ₹20,000/-.

January 24, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No