IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4299 of 2014 (O&M)
Date of Decision : 18.04.2018

Manju and others ....Appellants

Versus

Ranjit Sharma and another .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Dr. Anand Kumar Bishnoi, Advocate
for the appellants.

Mr. R.K. Bashamboo, Advocate
for respondent no. 2-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Palwal (later referred to as ‘the Tribunal’) for death of Ved Parkash Grover (later referred to as ‘the deceased’), in a motor vehicle accident on 24.08.2011 with Jeep bearing registration no. HR-01-Q-2538 (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 03.01.2014 awarded compensation of ₹14,86,491/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Ved Parkash Grover
(ii)	Age of the deceased	43 years
(iii)	Annual income of the deceased as assessed by the Tribunal	₹106240
(iv)	30% of (iii) above added towards future prospects	(₹106240+ ₹31872) = ₹138112 per annum

(v)	1/4th of (iv) above deducted towards personal expenses	(₹138112- ₹34528) = ₹103584 per annum
(vi)	Compensation calculated after applying the multiplier of 14	(₹103584X14) = ₹1450176
(vii)	Compensation for transportation and last rites	₹100000
(viii)	Compensation for loss of consortium	₹100000
(ix)	Compensation towards treatment expenses	₹16315
Total		**₹1486491**

4. Learned counsel for appellants has argued that deceased-Ved Parkash was self employed and an income tax assessee. Claimants have placed on record his income tax returns for the financial years of 2007-08 and 2008-09. The Tribunal has taken income of the deceased as per his income tax return for the financial year of 2007-08 and has ignored income of the deceased as reflected in income tax return for the financial year 2008-09 as ₹1,45,520/-. Though, claimants could not produce income tax return of the deceased for the subsequent years till his death in the year 2011, the Tribunal could take income of the deceased as shown in last income tax return. He has further argued that the deceased was 43 years of age and claimants are entitled to addition in his income towards future prospects alongwith compensation under the conventional heads as per observations of 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. 2 has argued that the Tribunal has rightly taken income of the deceased as per his income tax return for the financial year 2007-08. Claimants have not produced income tax returns of the deceased for the year 2009-10 and 2010-11. An inference in these circumstances can be drawn that income tax returns for the above two years have been withheld to avoid disclosure of decline in income of the

deceased. He has, however, not disputed the grant of addition in income of the deceased towards future prospects and compensation under the conventional heads as per observations of Hon'ble Apex Court in case of ***Pranay Sethi (supra)***.

6. Perusal of income tax returns of the deceased show that his income has increased by ₹40,000/- in the financial year 2008-09. So far as submission of learned counsel for respondent no. 2 that non-production of income tax returns for the financial years 2009-10 and 2010-11 may be taken as withholding the material evidence is concerned, I do not find myself in agreement with the same. Claimants have summoned Clerk from Income Tax Department alongwith record of income tax assessment returns of the deceased for the financial years 2010-11 and 2011-12. The witness of the concerned department produced income tax returns of the financial years 2007-08 and 2008-09. The Tribunal neither took note of this fact nor directed the concerned witness to produce income tax returns as called by the claimants. In these circumstances, there is no reason to draw interference that after the financial year 2008-09 income of the deceased has declined and this is why claimants have withheld production of returns of these years. The Tribunal has not recorded any reason for not taking note of income tax return of the deceased for the financial year 2008-09. It appears that this return has escaped attention of the Tribunal. I agree with learned counsel for appellants that income of the deceased as shown in last income tax return can be taken as his income at the time of his death. Relying on income tax return of the deceased for the year 2008-09, his income is assessed as ₹1,45,520/- per annum. As per law settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, claimants are entitled to 25% addition in income of the deceased towards future prospects besides compensation of ₹70,000/- towards loss of

consortium, loss of estate and funeral expenses.

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

(i)	Annual income of the deceased	₹145520 per annum
(ii)	25% of (i) above added towards future prospects	(₹145520+ ₹36380)= ₹181900 per annum
(iii)	1/4th of (ii) above deducted towards personal expenses	(₹181900- ₹45475) = ₹136425 per annum
(iv)	Compensation calculated after applying the multiplier of 14 in view of age of the deceased	(₹136425X14) = ₹1909950
(v)	Compensation towards loss of consortium	₹40000
(vi)	Compensation towards loss of estate	₹15000
(vii)	Compensation towards funeral expenses	₹15000
Total		**₹1979950**

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 **Ved Parkash Grover** is enhanced from **₹14,86,491/-** to **₹19,79,950/-.** 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. Claimants will share the enhanced amount of compensation as follows:-

(i) Claimant no. 1 (wife) : 40%

(ii) Claimant no. 2 to 4 (children) : 20% each

9. Respondent no. 2-Insurance Company being insurer of the offending vehicle will deposit share of claimants no. 1 and 2 in their bank accounts or pay the same through demand drafts. The share of claimants-respondents No. 3 and 4, 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 their name 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 minor claimant has attained age of majority. **Claimant no. 1-Smt. Manju**, 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.

10. 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.

April 18, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

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