

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2942 of 2015 (O&M)
Date of Decision : 30.10.2018

Kulwinder and anotherAppellants

Versus

Anchal Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arun Sharma, Advocate
for the appellants.

Mr. Kuldeep Singh Saini, Advocate
for respondent no. 2.

Mr. Rahul Pathania, 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, Karnal (later referred to as ‘the Tribunal’) for death of Jampi Bajwa @ J.P. Bajwa (later referred to as ‘the deceased’), in a motor vehicle accident on 27.10.2012 with Canter bearing registration no. PB-12-K-8970 (later referred to as ‘the offending vehicle’) due to its rash and negligent driving by respondent no. 1- Anchal Singh.

2. As the only issue involved in this appeal is quantum of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal vide award dated 15.12.2014 awarded compensation of ₹16,14,460/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Jampi Bajwa @ J.P. Bajwa
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(ii)	Age of the deceased	30 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹10000 per month
(iv)	1/3 rd of (iii) above deducted towards personal expenses	(₹10000- ₹3336) = ₹6664 per month
(v)	Compensation calculated after applying the multiplier of 17	(₹6664X12X17) = ₹1359456
(vi)	Compensation for loss of consortium	₹100000
(vii)	Compensation for loss of care and guidance	₹100000
(viii)	Compensation for funeral expenses	₹25000
(ix)	Medical expenses as awarded by the Tribunal	₹30000
Total		₹1614456 (rounded off to ₹1614460)

4. Learned counsel for the appellants has confined his submission only for grant of compensation in lieu of loss of future prospects of the deceased 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.**

5. Learned counsel for respondent no. 3-Insurance Company has argued that he has no objection if the compensation as per law laid down in case of ***Pranay Sethi (supra)*** is allowed. He has, however, pointed out that while applying the observations in case of ***Pranay Sethi (supra)***, amount of compensation under the conventional heads as allowed by the Tribunal is to be reduced from ₹2,25,000/- to ₹70,000/-.

6. Learned counsel for the appellants has no objection if the amount awarded by the Tribunal under the conventional heads be restricted to ₹70,000/-.

7. In view of submission of learned counsel for parties, amount of compensation, as awarded by the Tribunal in this case, is recalculated as follows:-

(i)	Monthly income of the deceased as assessed by the Tribunal	₹10000
(ii)	40% of (i) above added towards future prospects	(₹10000+ ₹4000)= ₹14000 per month
(iii)	1/3 rd of (ii) above deducted towards personal expenses	₹14000- ₹4666) = ₹9334 per month
(iv)	Compensation calculated after applying the multiplier of 17	(₹9334X12X17) = ₹1904136
(v)	Compensation towards loss of consortium	₹40000
(vi)	Compensation towards loss of estate	₹15000
(vii)	Compensation towards funeral expenses	₹15000
(viii)	Medical expenses as awarded by the Tribunal	₹30000
Total		₹2004136 (rounded off to ₹2004150)

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 Jampi Bajwa @ J.P Bajwa is enhanced from ₹16,14,460/- to ₹20,04,150/-. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% 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 per award.

9. The share of claimant-appellant 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(s) 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-Kulwinder, being mother 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 her convenience to meet expenses of their brought up.

10. In the event of demise of any of the claimant before or after disposal of this appeal, compensation of her share shall be paid to surviving claimant.

October 30, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No