

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.5474 of 2013 (O&M)
Date of Decision: February 09, 2018.

Leela Ram and others
.....APPELLANT(s).

VERSUS

Kuldeep and others
.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Bhavna Grewal, Advocate for
Mr. S.K. Yadav, Advocate
for the appellant (s).

None for the respondents.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the tribunal') vide award dated 16.09.2013 allowed compensation of ₹4,09,000/- to appellants-claimants No.1 and 2 for death of their son Aman, in a motor vehicle accident with Car bearing registration No.DL-9CZ-1355.

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 by the tribunal was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Aman
(ii)	Age of the deceased	18½ years

(iii)	Income of the deceased	₹4200 p.m.
(iv)	Deduction towards personal expenses @1/2	₹4200-2100=₹2100 p.m. i.e. ₹25200 p.a.
(v)	Multiplier applied 15 (as per age of claimants)	₹25200X15 = ₹378000/-
(vi)	Medical expenses	₹11000
(vii)	Loss of love and affection	₹10000
(viii)	Expenses for funeral and last rites	₹10000
<i>Total</i>		₹4,09,000/-

Learned counsel for the appellants-claimants No.1 and 2 has argued that the tribunal assessed the income of the deceased as ₹4,200/- per month by considering him as a labourer. The accident took place in the year 2012, when minimum wages in the State of Haryana for unskilled worker was ₹4847/- per month and the income of the deceased cannot be taken less than minimum wages prescribed by the State Government. She has further argued that the tribunal has applied multiplier as per the age of the claimants instead of applying the multiplier as per age of the deceased, who was 18 years and six months of age at the time of accident. No compensation was allowed towards future prospects and claimants are entitled to addition of 40% in the income of the deceased towards future prospects. After being injured on 08.03.2012, deceased was taken to Civil Hospital, Narnaul, where he was treated but could not be saved. The tribunal has not allowed any amount of compensation towards transportation and attendant charges.

On giving a careful thought to the submissions of learned counsel for the appellants No.1 and 2, I find merits in her submission that income of the deceased cannot be taken as less than minimum wages prescribed by the State Government, which was ₹4,847/- for unskilled workers as on 01.01.2012, as such, monthly income of the deceased is taken

in rounded off figure as ₹4,850/-. Constitution Bench of Hon'ble Apex Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009*, has observed that while computing compensation for dependency, multiplier is to be applied as per age of the deceased, which in view of the observations in case of *Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121*, is 18. The deceased remained in the hospital for seven days before his death and during this period, his family members were attending him and had spent on his care and treatment. The tribunal has allowed compensation towards medical expenses but no compensation was allowed towards transportation and attendant charges. On this count, appellants-claimants are entitled to a consolidated sum of ₹10,000/-.

In view of the above discussion, the compensation to which the appellants-claimants No.1 and 2 are entitled, is computed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹4850 per month
(ii)	40% of above (i) to be added as future prospects	(₹4850+₹1940)= ₹6790 per month
(iii)	Deduction of 1/2 towards personal expenses of the deceased	(₹6790-₹3395)= ₹3395 per month
(iv)	Compensation after multiplier of 18 is applied	(₹3395X12X18)= ₹733320
(v)	Medical Expenses	₹11000
(vi)	Transportation and attendant charges	₹10000
(vii)	Loss of estate	₹15000
(viii)	Funeral expenses	₹15000
<i>Total</i>		₹7,84,320/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants No.1 and 2 is enhanced from ₹4,09,000/- to ₹7,84,320/- for death

of their son Aman. 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 in equal shares. Respondent No.3-insurance company will deposit the shares of appellants-claimants No.1 and 2 in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

February 09, 2018.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No