

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH.

FAO No.3497 of 2015 (O&M)  
Date of Decision: January 24, 2018.

Sunita and others

.....APPELLANT(s).

VERSUS

Mukesh Kumar Rai and others

.....RESPONDENT(s).

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Tejpal Dhull, Advocate  
for the appellant (s).

Mr. Nikhil K. Chopra, Advocate with  
Ms. Monika Jangra, Advocate for  
Ms. Vandana Malhotra, Advocate  
for respondent No.3-insurance company.

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**SURINDER GUPTA, J.**

Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the tribunal') vide award dated 05.11.2014 allowed compensation of ₹9,43,000/- for death of Baljeet Kumar, husband of appellant No.1, father of appellants No.2 and 3 and son of appellant No.4, in a motor vehicle accident with Truck bearing registration No.HR-37B-0087.

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><b>Sr. No.</b></i> | <i><b>Heads</b></i>  | <i><b>Calculation</b></i> |
|-----------------------|----------------------|---------------------------|
| (i)                   | Name of the deceased | Baljeet Kumar             |
| (ii)                  | Age of the deceased  | 30 years                  |

|              |                                                                 |                               |
|--------------|-----------------------------------------------------------------|-------------------------------|
| (iii)        | Income of the deceased                                          | ₹6000 p.m. i.e. ₹72000/- p.m. |
| (iv)         | Deduction towards personal expenses 1/4 <sup>th</sup> of income | ₹72000-₹18000= ₹54000/- p.a.  |
| (v)          | Multiplier applied 17                                           | ₹54000 X 17 = ₹918000/-       |
| (vi)         | Loss of consortium                                              | ₹40000/-                      |
| (vii)        | Loss of love and affection                                      | ₹80000/-                      |
| (viii)       | Funeral expenses/last rites                                     | ₹25000/-                      |
| <i>Total</i> |                                                                 | ₹10,63,000/-                  |

Learned counsel for the appellants has argued that the deceased, who was 30 years of age, 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 ₹15,000/- for loss of estate; ₹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 towards grant of future prospects 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 love and affection, 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                                                   | ₹6000 per month                   |
| (ii)          | Deduction of 1/4 <sup>th</sup> towards personal expenses of the deceased | (₹6000-₹1500)=<br>₹4500 per month |
| (iii)         | 40% of above (ii) to be added as future prospects                        | (₹4500+₹1800)=<br>₹6300 per month |
| (iv)          | Compensation after multiplier of 17 is applied                           | (₹6300X12X17)=<br>₹1285200        |
| (v)           | Loss of consortium                                                       | ₹30000                            |
| (vi)          | Loss of estate                                                           | ₹10000                            |
| (vii)         | Funeral expenses                                                         | ₹10000                            |
| <i>Total</i>  |                                                                          | ₹13,35,200/-                      |

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 ₹10,63,000/- to ₹13,35,200/- for death of Baljeet Kumar. 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) Sunita, widow                         | : | 40%      |
| (2) Khushi, (3) Aryan, minor children and | : | 20% each |
| (4) Salochana, mother, of the deceased    | : | 20%      |

Respondent No.3-insurance company will deposit the shares of appellants-claimants No.1 and 4 in their bank accounts or pay the same through demand drafts. The share of minor appellants No.2 and 3, will be deposited in some nationalised bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minors as required at the time of deposit of the amount and the minors shall not be asked to bring the fresh order from the Tribunal to get the payment of the amount deposited in their names

after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually give to bring the order of the Tribunal to get the payment even after attaining the age of majority. 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***