

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.5799 of 2013 (O&M)
Date of Decision: February 28, 2018.

Jaibir and another

.....APPELLANT(s).

VERSUS

Dharambir Singh and another

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ram Kumar Saini, Advocate
for the appellant (s).

None for the respondents.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the tribunal') vide award dated 17.05.2013 allowed compensation of ₹4,25,000/- for death of Anup Singh, son of appellants, in a motor vehicle accident with Bus bearing registration No.HR-38C/0528.

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	Anup Singh
(ii)	Age of the deceased	26 years
(iii)	Income of the deceased	₹5000 p.m.=₹60000 p.a.
(iv)	Deduction towards personal expenses 50%	₹60000-30000=₹30000 p.a.

(v)	Multiplier applied 13	₹30000X13 = ₹390000.
(vi)	Funeral expenses	₹5000.
(vii)	Loss of estate	₹5000.
(viii)	Loss of love and affection	₹25000.
<i>Total</i>		₹4,25,000/-

Learned counsel for the appellants has argued that deceased was 26 years of age at the time of accident, as such, as per the observations of Hon'ble Apex Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009*, claimants are entitled to addition of 40% in the income of the deceased towards future prospects. The tribunal has applied multiplier as per the age of the claimants while the multiplier is to be applied as per the age of the deceased.

Hon'ble Apex Court in the aforesaid case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*, issued the guidelines to be taken note while awarding compensation in a case of motor vehicle accident, in para 61 of the judgment as follows:-

“61. In view of the aforesaid analysis, we proceed to record our conclusions:-

(i) The two-Judge Bench in *Santosh Devi* should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in *Sarla Verma*, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

(ii) As *Rajesh* has not taken note of the decision in *Reshma Kumari*, which was delivered at earlier point of time, the decision in *Rajesh* is not a binding precedent.

(iii) While determining the income, an addition of 50% of

actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

(v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of **Sarla Verma** which we have reproduced hereinbefore.

(vi) The selection of multiplier shall be as indicated in the Table in **Sarla Verma** read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

In view of the above observations, an addition of 40% in the income of the deceased is allowed and the multiplier is also to be applied as

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹5000 per month
(ii)	40% of above (i) to be added as future prospects	(₹5000+₹2000)= ₹7000 per month
(iii)	Deduction of 1/2 towards personal expenses of the deceased	(₹7000-₹3500)= ₹3500 per month
(iv)	Compensation after multiplier of 17 is applied	(₹3500X12X17)= ₹7,14,000/-
(vi)	Loss of estate	₹15000
(vii)	Funeral expenses	₹15000
<i>Total</i>		₹7,44,000/-

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 ₹4,25,000/- to ₹7,44,000/- for death of Anup 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 in equal shares. 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 given to other surviving claimant.

February 28, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: **Yes/No**

Whether Reportable: **Yes/No**