

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3940 of 2015 (O&M)
Date of Decision : 07.02.2018

Dwarki Devi @ Dwarka Devi and anotherAppellants

Versus

Irfan and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amandeep Singh Rai, Advocate
for the appellants.

None for respondents no. 1 and 2.

Mr. Ashwani Talwar, Advocate
for respondent no.3-Insurance Company.

None for respondent no. 5.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ludhiana (later referred to as ‘the Tribunal’) for death of Naian Kumar (later referred to as ‘the deceased’), in a motor vehicle accident on 02.08.2012 with truck bearing registration no. UP-15-AT-0892 (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 31.01.2015 awarded compensation of ₹4,40,000/- to claimants-appellants, which was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Naian Kumar
(ii)	Age of the deceased	39 years

(iii)	Monthly income of the deceased	₹7500
(iv)	½ of (iii) above deducted towards personal expenses	₹7500- ₹3750) = ₹3750 per month
(v)	Compensation calculated after applying the multiplier of 7 in view of age of mother of the deceased	(₹3750X12X7) = ₹315000
(vi)	Funeral expenses	₹25000
(vii)	Loss of love and affection	₹100000
Total		₹440000

4. Learned counsel for appellants has confined his submission seeking enhancement of compensation on two counts. Firstly, the Tribunal has applied multiplier as per age of claimant-mother; and secondly, no addition in income of the deceased towards future prospects has been made. While referring to law laid down by Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, he has argued that the deceased was 39 years of age and was a truck driver. Hon'ble Apex Court in para 61 of the judgment has specifically held that multiplier is to be applied as per age of the deceased and has also allowed 40% addition in income of self-employed deceased towards future prospects.

5. Learned counsel for respondent no. 3-Insurance Company has argued that though Hon'ble Apex Court in case of ***Pranay Sethi (supra)*** has held that multiplier is to be applied as per age of the deceased but the deceased was bachelor at the time of accident. In this case claimants are parents of the deceased and only mother can be held to be dependent on income of the deceased, as such, the Tribunal has rightly applied multiplier as per age of the claimant-mother. He has further argued that the Tribunal has allowed compensation of ₹25,000/- for funeral expenses, while claimants are entitled to compensation of ₹15,000/- on this score. The Tribunal has also allowed ₹1 lac towards loss of love and affection, to which claimants are not entitled as per

6. The law laid down by Hon'ble Apex Court in case of ***Pranay Sethi (supra)*** has not been disputed by learned counsel for appellants and learned counsel for respondent no. 3-Insurance Company in para 61. The multiplier is to be applied as per age of the deceased and not as per age of claimants, who are also entitled to 40% addition in income of the deceased towards future prospects. However, under the head of funeral expenses, claimants are entitled to compensation of ₹15,000/- while no compensation can be allowed under the head of loss of love and affection. Claimants are also entitled to compensation of ₹15000/- towards loss of estate.

7. In view of observations of Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, compensation to which claimants-appellants are entitled is reassessed as followings:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Naian
(ii)	Age of the deceased	39 years
(iii)	Date of accident	02.08.2012
(iv)	Monthly income of the deceased	₹7500
(v)	40% of (iv) is to be added towards future prospects	(₹7500+ ₹3000) = ₹10500 per month
(vi)	½ of (v) above deducted towards personal expenses	₹10500- ₹5250) = ₹5250 per month
(vii)	Compensation calculated after applying the multiplier of 15	(₹5250X12X15) = ₹945000
(viii)	Compensation for funeral expenses	₹15000
(ix)	Compensation for loss of estate	₹15000
<i>Total</i>		₹975000

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 Naian is enhanced from ₹4,40,000/- to ₹9,75,000/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the claim petition till actual

realization. Respondent no. 3-Insurance Company being insurer of the offending vehicle will deposit the share of claimant in her bank account or pay the same through demand drafts.

February 07, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No