

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.3525 of 2016 (O&M)
Date of Decision: February 26, 2018.

Ranjit Singh and others
.....APPELLANT(s).

VERSUS

Sukhwinder Singh and others
.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Bhavesh Aggarwal, Advocate for
Mr. Ashish Aggarwal, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as 'the tribunal') vide award dated 12.10.2015 allowed compensation of ₹10,85,000/- for death of Smt. Palwinder Kaur, wife of appellant No.1 and mother of appellants No.2 to 5, in a motor vehicle accident with Truck bearing registration No.PB-29-H-8052.

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	Smt. Palwinder Kaur

(ii)	Age of the deceased	40 years
(iii)	Income of the deceased	₹4000 p.m.
(iv)	Addition of 50% towards future prospects	₹4000+2000=₹6000.
(v)	Deduction towards personal expenses 1/4 th	₹6000-1500=₹4500 p.m.
(vi)	Multiplier applied 15	₹4500X12X15 = ₹8,10,000/-
(vii)	Funeral expenses	₹25000.
(viii)	Loss of consortium	₹100000.
(ix)	Loss of love and affection	₹100000.
(x)	Loss of estate	₹50000.
<i>Total</i>		₹10,85,000/-

Learned counsel for the appellant has argued that deceased was engaged in work of stitching of garments and earning approximately ₹10,000/- per month besides rendering services to the family worth ₹6000/- per month but the tribunal has taken her income as ₹4000/- per month. The job of stitching is highly skilled job and the the minimum wages prescribed for highly skilled worker, as per letter of Labour Commissioner, Punjab was ₹8404/- as on 01.03.2013 and w.e.f 01.09.2013 was ₹8,956/-. Even if the minimum wages had to be taken, same is to be taken as ₹8,600/- per month.

Learned counsel for insurance company has argued that in the absence of any evidence, the tribunal has rightly assessed income of deceased as ₹4000/- per month. However, the tribunal has added 50% addition in the income of the deceased towards future prospects, which 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* could be 25%. The tribunal has also allowed compensation of ₹2,75,000/- on conventional heads which could be confined only to

₹70,000/-.

The tribunal has assessed income of the deceased as ₹4000/- per month. Even if, she be taken as a skilled worker, if not highly skilled worker, the minimum wages prescribed by the Labour Commissioner, Punjab vide his letter dated 16.09.2013, for skilled worker as on 01.03.2013 was ₹7372/-, which was further enhanced to ₹7924.75p w.e.f. 01.09.2013. Keeping in view the above minimum wages, income of the deceased, who died on 17.07.2013, can be taken as ₹7500/- per month.

As per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***, for the deceased, in a motor vehicle accident, between the age group of 40 to 50 years, engaged in private job/self employment, addition of 25% can be allowed towards future prospects, besides allowing compensation of ₹40,000/- towards loss of consortium, ₹15,000/- towards loss of estate and ₹15,000/- towards funeral expenses.

Keeping in view the aforesaid discussion, the compensation to which the appellants-claimants are entitled, works out as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹7500 per month
(ii)	25% of above (i) to be added as future prospects	(₹7500+₹1875)= ₹9375 per month
(iii)	Deduction of 1/4 th towards personal expenses of the deceased	(₹9375-₹2344)= ₹7031 per month
(iv)	Compensation after multiplier of 15 is applied	(₹7031X12X15)= ₹12,65,580/-
(v)	Loss of consortium	₹40000.
(v)	Loss of estate	₹15000.
(vi)	Funeral expenses	₹15000.
Total		₹13,35,580/-

tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹10,85,000/- to ₹13,35,580/- for death of Smt. Palwinder Kaur. 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 shared by the appellants-claimants in equal shares. Respondent No.3-insurance company will deposit the amount of enhanced compensation in the bank account of appellants No.1 to 3 or pay the same through demand draft. The share of minor appellants No.4 and 5, who as per their age given at the time of filing of the petition are still minors, 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 her name 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 claimant shall also be entitled to costs of this appeal.

February 26, 2018.

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No