

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3672 of 2016 (O&M)
Date of Decision : 30.01.2018

Asubi and othersAppellants

Versus

Azad @ Mohd. Azad and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashish Gupta, Advocate
for the appellants.

Mr. Mazlish Khan, Advocate
for respondent no. 2

Ms. Vandana Malhotra, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Nuh at Mewat (later referred to as ‘the Tribunal’) for death of Sabbir (later referred to as ‘the deceased’), in a motor vehicle accident on 26.11.2011 with a Dumper bearing registration no. RJ-02-GA-2647 (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 31.05.2013 awarded compensation of ₹8,02,600/- to claimants-appellants, which was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Sabbir
(ii)	Age of the deceased	35 years
(iii)	Monthly income of the deceased	₹4500

(iv)	1/10 th of (iii) above deducted towards personal expenses	₹4500- ₹450) = ₹4050 per month
(v)	Compensation calculated after applying the multiplier of 16	(₹4050X12X16) = ₹777600
(vi)	Transportation of dead body	₹5000
(vii)	Funeral expenses	₹10000
(viii)	Loss of consortium	₹10000
Total		₹802600

4. Learned counsel for claimants-appellants has argued that deceased was 35 years of age. The Tribunal has taken his salary as a daily wager. Even in the year 2011, minimum wages of an unskilled labourer was ₹4643.89 ps., as such, income of the deceased as assessed by the Tribunal is on lower side. The Tribunal has also not allowed any addition in income of the deceased towards future prospects or compensation on conventional head like loss of estate. Compensation allowed towards loss of consortium and funeral expenses is also on lower side as per observations of Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.**

5. Learned counsel for respondent no. 3-Insurance Company has argued that income of the deceased as assessed by the Tribunal was in accordance with price index prevailing at the relevant time. The Tribunal has also allowed compensation of ₹10,000/- towards funeral expenses. While making deduction from income of the deceased towards personal expenses, a cut of 1/10th was applied from income of the deceased, which as per law laid down by Hon'ble Apex Court in case of **Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121**, should be 1/5th.

6. Hon'ble Apex Court in case of **Pranay Sethi (supra)**, has settled the law with regard to grant of compensation towards future prospects, multiplier to be applied as per age of the deceased, deduction from income of

the deceased towards personal expenses etc. The deceased has left behind 10 dependents, which include his wife, mother (since deceased) and 8 children. Keeping in view number of dependents, cut of 1/5th is to be applied from income of deceased towards his personal expenses. Though, the Tribunal has stated that multiplier attracted in this case is 17 but rightly applied 16 as per age of the deceased. Claimants are also entitled to addition of 40% in income of the deceased towards future prospects.

7. The accident had taken place on 26.11.2011 and at that time minimum wages of unskilled labourer in the State of Haryana as per letter of Labour Commissioner bearing no. 28647-774 dated 05.09.2011 was ₹4643.89 ps. rounded off to ₹4650/-. The Tribunal has taken income of the deceased as ₹4500/-, which is less than the minimum wages, which an unskilled labourer was getting in the year 2011, as such, the same is taken as ₹4650/- per month.

8. 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	Sabbir
(ii)	Age of the deceased	35 years
(iii)	Date of accident	26.11.2011
(iv)	Monthly income of the deceased	₹4650
(v)	40% of (iv) is to be added towards future prospects	(₹4650+ ₹1860) = ₹6510 per month
(vi)	1/5 th of (v) above deducted towards personal expenses	₹6510- ₹1302) = ₹5208 per month
(vii)	Compensation calculated after applying the multiplier of 16	(₹5208X12X16) = ₹999936
(viii)	Compensation for funeral expenses	₹10000
(ix)	Compensation for loss of estate	₹10000
(x)	Compensation for loss of consortium	₹30000
<i>Total</i>		₹1049936 (rounded off to ₹1050000)

9. 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 Sabbir is enhanced from ₹8,02,600/- to ₹10,50,000/-. 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 claimants in their bank accounts or pay the same through demand drafts. Claimants will share the enhanced amount of compensation as per award passed by the Tribunal. The share of claimants-appellants No. 5 to 9, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their names after the date of their attaining majority. The above direction has been issued to save claimant from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after attaining the age of majority. Claimant no. 1-Asubi, being mother and natural guardian of minor claimant shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of their brought up.

January 30, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No