

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3802 of 2016 (O&M)
Date of Decision : 20.02.2018

Smt. Sangeeta and anotherAppellants

Versus

Banda Nageswara Rao and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vinod Kumar, Advocate for the appellants.
Ms. Madhu Sharma, Advocate for respondent no.3.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Jhajjar (later referred to as ‘the Tribunal’) for death of Paras Ram (later referred to as ‘the deceased’), in a motor vehicle accident on 16.05.2012 with truck bearing registration no. AP-27-TT-1166 (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 24.12.2015 awarded compensation of ₹14,35,000/- to claimants-appellants, which was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Paras Ram
(ii)	Age of the deceased	37 years
(iii)	Monthly income of the deceased	₹7000
(iv)	50% of (iii) above added towards future prospects	(₹7000- ₹3500)= ₹10500/- per month
(v)	1/3 rd of (iv) above deducted towards personal expenses	(₹10500- ₹3500) = ₹7000 per month

(vi)	Compensation calculated after applying the multiplier of 15 in view of age of the deceased	(₹7000X12X15) = ₹1260000
(vii)	Loss of consortium	₹100000
(viii)	Transportation and Funeral expenses	₹25000
(ix)	Loss of love and affection	₹50000
Total		₹1435000

4. Learned counsel for appellants has argued that the deceased was 37 years of age at the time of accident and was employed as driver with RCI Logistics Pvt. Ltd. under kilometer scheme. Sangeeta wife of the deceased while appearing as PW-1 has stated that the deceased was getting monthly income of ₹20,000/- with free lodging, boarding and uniform. Mohan Raj, Fleet Executive, RCI Logistics Pvt. Ltd., while appearing as PW-4 has stated that the deceased was employed with them and they used to pay him @ ₹19.10/- per kilometer including diesel charges, toll tax and salary etc. Certificate (Ex. P-11) shows that the deceased was getting salary around ₹15,000/- to ₹16,000/- per month. The Tribunal has assessed income of the deceased as ₹7000/- per month, which is on lower side.

5. Learned counsel for respondent no. 3-Insurance Company has argued that oral testimony of PW-1 Sangeeta does not prove salary of the deceased. Though PW-4 Mohan Raj, Fleet Executive, RCI Logistics Pvt. Ltd. has deposed about employment of deceased but he has not placed on record agreement with him nor his appointment letter. The Tribunal has rightly taken salary of the deceased as ₹7000/- per month. Even otherwise, compensation awarded towards future prospects and conventional heads is on higher side. Hon'ble Apex Court in case of **National Insurance Company Limited vs. Pranay Sethi and others, 2017 (4) R.C.R. (Civil) 1009** has held that private employee upto the age of 40 years can be allowed

future prospects @ 40% while the Tribunal has allowed addition of 50% in income of the deceased on this score. The Tribunal has also allowed compensation of ₹1,75,000/- towards conventional heads while only ₹70,000/- could be allowed on this score as per observations of Hon'ble Apex Court in case of ***Pranay Sethi (supra)***.

6. So far as law laid down by Hon'ble Apex Court in case of ***Pranay Sethi (supra)*** is concerned, the same has not been disputed by learned counsel for appellants. The only question to be seen in this appeal is as to whether the Tribunal has rightly assessed salary of the deceased? It is proved on file that the deceased was employed with RCI Logistics Pvt. Ltd., which was paying him @ ₹19.10 ps. per kilometer including diesel charges, toll tax and salary. PW-4 Mohan Raj, Fleet Executive has placed on record salary certificate (Ex. P-11), which shows salary of the deceased during the period from 31.08.2011 to 22.09.2011 as ₹14,660/-; from 23.09.2011 to 23.10.2011 as ₹15,220/-; from 24.10.2011 to 26.11.2011 as ₹16940/-; from 27.11.2011 to 11.01.2012 as ₹20,540/-; from 12.01.2012 to 08.02.2012 as ₹14,860/-; from 09.02.2012 to 14.03.2012 as ₹19,900/-; from 15.03.2012 to 31.03.2012 as ₹13,550/-; from 01.04.2012 to 01.05.2012 as ₹17,380/-; and from 02.05.2012 to 31.05.2012 as ₹15,440/-. Rate ₹19.10 ps. per kilometer, allowed to deceased, included rate of diesel ₹12.92, toll tax ₹3.50, RTO ₹1.48 and salary ₹1.20. Details of the salary as given in Ex. P-11 show that the deceased was getting salary on follows counts:-

Sr. No.	Head
1.	Salary
2.	Ack incentive
3.	Phone
4.	Local

The company has calculated his per day expenses @ ₹ 542/-.

7. Keeping in view above details, average salary of the deceased can be safely taken as ₹10,000/- per month and after allowing 40% addition in income of the deceased towards future prospects and compensation under the conventional heads as per observations of Hon'ble Apex Court in case of *Pranay Sethi (supra)*, amount of compensation to which claimants are entitled is reassessed as followings:-

(i)	Monthly income of the deceased	₹10000
(ii)	40% of (iii) above added towards future prospects	(₹10000- ₹4000)= ₹14000/- per month
(iii)	1/3 rd of (iv) above deducted towards personal expenses	(₹14000- ₹4666) = ₹9334 per month
(iv)	Compensation calculated after applying the multiplier of 15 in view of age of the deceased	(₹9334X12X15) = ₹1680120
(v)	Loss of estate	₹15000
(vi)	Loss of consortium	₹40000
(vii)	Funeral expenses	₹15000
Total		₹1750120 (rounded off to ₹1750000)

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 Paras Ram is enhanced from ₹14,35,000/- to ₹17,50,000/-. 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 claimant-appellant No. 2, who is minor, will be deposited in some

nationalized bank as fixed deposit till the period he 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 he shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in his 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-Sangeeta, 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 his brought up.

February 20, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No