

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**FAO No.7649 of 2014 (O&M)
Date of Decision: March 01, 2018.**

Suman and another

.....APPELLANT(s).

VERSUS

Ajesh Goel and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. G.C. Shahpuri, Advocate
for the appellant (s).

Mr. D.K. Prajapati, Advocate for
Mr. R.S. Madan, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (hereinafter referred to as 'the tribunal') vide award dated 12.02.2014 allowed compensation of ₹9,62,624/- for death of Naresh Kumar, husband of appellant No.1, and son of appellant No.2, in a motor vehicle accident with Audi Car bearing Temporary No.HR-99 LR(T)-0052 Engine No.004581 and chassis No.701530.

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 to claimants was computed as

follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Naresh Kumar
(ii)	Age of the deceased	24 years
(iii)	Income of the deceased (minimum wages + 25% addition for driving auto in odd hours	₹5237+1309=₹6546 p.m.
(iv)	Deduction towards personal expenses 1/3rd	₹6546-2182=₹4364 p.m. i.e. ₹52368 p.a.
(v)	Multiplier applied 18	₹52368X18 = ₹942624
(vi)	Loss of consortium	₹10000
(vii)	Loss of estate	₹5000
(viii)	Funeral expenses	₹5000
<i>Total</i>		₹9,62,624/-

Learned counsel for the appellants has argued that claimants are entitled to addition of 40% in the income of the deceased towards future prospects and are also entitled to compensation of ₹15,000/- for loss of estate; ₹40,000/- for loss of consortium and ₹15,000/- towards funeral expenses as per the observations in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009.***

Learned counsel for insurance company has argued that the deceased was taken as a skilled labourer and the Tribunal after taking minimum wages prescribed for the skilled labourers, has added 25% in the income of the deceased on the ground that being a driver of three-wheeler, he was master of his vocation and able to earn more by plying three-wheeler for more time in late night. There is no evidence on record that the deceased used to earn more by plying three-wheeler during late hours, as such addition of 25% be adjusted towards addition in the income of the deceased on account of future prospects.

The Tribunal, while assessing the income of the deceased, has taken wages of skilled worker prevailing at the relevant time on the basis of

evidence before it and was of the opinion that being a master of his vocation, deceased was able to earn more than a skilled worker by plying three-wheeler for extra time. The above observation of learned Tribunal was not challenged by the insurance company by filing any appeal. In this appeal, where claimants are seeking enhancement of compensation, I find no reason to differ with the observation of learned Tribunal regarding the income of the deceased, who was 24 years of age. As per the law laid down by Hon'ble Apex Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*, claimants are entitled to addition of 40% in the income of the deceased towards future prospects and grant of compensation of ₹15,000/- towards loss of estate, ₹40,000/- towards loss of consortium and ₹15,000/- towards funeral expenses.

In view of the above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sl.No.	Heads	Calculation
(i)	Income of the deceased (minimum wages + 25% addition for driving auto in odd hours	₹5237+1309=₹6546 p.m.
(ii)	40% of above (i) to be added as future prospects	(₹6546+₹2618)= ₹9164/- per month
(iii)	Deduction of 1/3 rd towards personal expenses of the deceased	(₹₹9164-₹3055)= ₹6109/-per month
(iv)	Compensation after multiplier of 18 is applied	(₹6109X12X18)= ₹13,19,544/-
(v)	Loss of consortium	₹40000
(vi)	Loss of estate	₹15000
(vii)	Funeral expenses	₹15000
Total		₹13,89,544/-

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 ₹9,62,624/- to ₹13,89,544/- for death of Naresh

Kumar. 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 as follows:-

1. Suman, widow of the deceased : 65%
2. Nirmala Devi, mother of deceased : 35%

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), her share of compensation shall be given to other surviving claimant.

March 01, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

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

Whether Reportable: ***Yes/No***