IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**FAO No. 7656 of 2014 (O&M)**
**Date of Decision : 06.03.2018**

Rashmi and others .....Appellants

Versus

Ranjit Singh and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. S.S. Swaich, Advocate
for the appellants.

Mr. Vishal Sharma, Advocate
for Mr. Vijay Lath, Advocate
for respondent no. 2.

Mr. Sudhanshu Makkar, 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, Fatehgarh Sahib (later referred to as 'the Tribunal') for death of Ravinider Kumar (later referred to as 'the deceased'), in a motor vehicle accident on 19.02.2012 with bus bearing no. PB-11-AG-9555 (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. Learned counsel for appellants has argued that date of birth of the deceased was proved on file as 20.11.1986 and at the time of his death he was 25 years and 03 months of age. The Tribunal has taken his income as ₹160/- per day but has calculated it for 26 days in a month instead of 30 days. He was married and has left behind his wife, two sons and parents. Even if father be not taken as dependant on the deceased his mother falls in the category of dependant, as such, 1/4$^{th}$ deduction could be made towards personal expenses

of the deceased instead of 1/3rd as applied by the Tribunal. Claimants-appellants are also entitled to addition in income of the deceased towards future prospects as per 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***. They are also entitled to compensation of ₹70,000/- under the conventional heads, which the Tribunal has allowed as only ₹15,000/-.

4. Learned counsel for respondents have argued that as per evidence on record, the deceased was employed with Municipal Council, Mandi Gobindgarh and was getting daily wages of ₹160/-. Being a daily wager he was entitled to wages for the days he was working with the Council, as such, the Tribunal has rightly calculated his income by taking 26 working days in a month. Regarding dependency of mother on income of the deceased, he has argued that during lifetime of father, mother is not dependant on the son, as such, the Tribunal has made deduction of 1/3rd from income of the deceased towards his personal expenses. He has, however, not opposed the grant of compensation as per law laid down by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***.

5. As per evidence on file, the deceased was a daily wager and was getting wages of ₹160/- per day. The Tribunal has committed no error while computing his income for 26 days in a month after excluding four Sundays, as such, I find no reason to interfere with the quantum of income of the deceased as taken by the Tribunal. The deceased has left behind his wife, two children and parents. As per observations of Hon'ble Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, mother is also to be taken as dependant on the son, as such, deduction of 1/4th from income of the deceased is to be made towards his personal expenses. Claimants are also entitled to 40% addition in income of the deceased towards

future prospects and compensation of ₹15,000/- towards funeral expenses, ₹40,000/- towards loss of consortium and ₹15,000/- towards loss of estate. The deceased was born on 20.11.1986 and at the time of his death he was around 25 years and 3 months of age, as such, multiplier applicable as per observations of Hon'ble Apex Court in case of ***Sarla Verma (supra)*** is 18 and not 17 as the multiplier of 17 becomes applicable if the deceased had completed the age of 26 years.

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

| ***Sr. No.*** | ***Heads*** | ***Calculation*** |
|---|---|---|
| (i) | Name of the deceased | Ravinder Kumar |
| (ii) | Age of the deceased | 25 years |
| (iii) | Monthly income of the deceased @ ₹160/- per day for 26 days | ₹4160 per month |
| (iv) | 40% of (iii) above added towards future prospects | (₹4160+ ₹1664)= ₹5824/- per month |
| (v) | 1/4$^{th}$ of (iv) above deducted towards personal expenses | (₹5824- ₹1456) = ₹4368 per month |
| (vi) | Compensation calculated after applying the multiplier of 18 in view of age of mother of the deceased | (₹4368X12X18) = ₹943488 |
| (vii) | Compensation for loss of estate | ₹15000 |
| (viii) | Compensation for funeral expenses | ₹15000 |
| (ix) | Compensation for loss of consortium | ₹40000 |
| | ***Total*** | **₹1013488 (rounded off to ₹1013500)** |

7. 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 Ravinder Kumar is enhanced from ₹5,85,700/- to ₹10,13,500/-. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of instant appeal 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 amount of compensation as follows:-

| | | | |
|---|---|---|---|
| (i) | Appellant no. 1 (wife) | : | 50% |
| (ii) | Appellants no. 2 and 3 (children) | : | 15% each |
| (iii) | Appellants no. 4 and 5 (parents) | : | 20% |

8. The share of claimants-appellants No. 2 and 3, 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 his names after the date of their attaining majority. The above direction has been issued to save claimants 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-Rashmi, being mother and natural guardian of minor claimants 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.

9. In the event of demise of any of the claimants before or after passing of this order, compensation of his/her share shall be paid to surviving claimants.

**March 06, 2018** **( SURINDER GUPTA)**
jk **JUDGE**

*Whether speaking/reasoned* *Yes/No*
*Whether reportable* *Yes/No*