IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 7702 of 2014 (O&M)
Date of Decision : 02.05.2018

Punia @ Poonam and others ....Appellants

Versus

Dalip Kumar and another .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arjunveer Sharma, Advocate
for the appellants.

Mr. R.C. Kapoor, Advocate
for respondent no. 2-Insurance Company.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Ludhiana (later referred to as 'the Tribunal') for death of Kanshi Ram (later referred to as 'the deceased'), in a motor vehicle accident on 14.09.2008 with motorcycle bearing registration no. PB-10-BZ-2363 (later referred to as 'the offending vehicle').

2. As the only issue involved in this appeal relates to quantum of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. The Tribunal vide award dated 01.12.2011 awarded compensation of ₹5,35,400/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Kanshi Ram
(ii)	Age of the deceased	45 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹4500
(iv)	1/3rd of (iii) above deducted towards personal expenses	₹4500- ₹1500) = ₹3000 per month

(v)	Compensation calculated after applying the multiplier of 14	(₹3000X12X14) = ₹504000
(vi)	Compensation for loss of consortium	₹5000
(vii)	Compensation for funeral expenses	₹5000
(viii)	Compensation for treatment expenses	₹21328
Total		**₹535328 (rounded off to ₹535400)**

4. Learned counsel for appellants has argued that the deceased was 45 years of age. As per law settled by Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***, claimants are entitled to 25% addition in income of the deceased towards future prospects. The Tribunal has taken income of the deceased as ₹4500/- per month, which is on lower side. Claimants are also entitled to compensation under the conventional heads as per law settled in above referred case.

5. Learned counsel for respondent no. 2 has not disputed the law as settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)*** with regard to grant of future prospects. He has, however, submitted that the Tribunal has rightly assessed the income of the deceased as ₹4500/- per month, which calls for no interference.

6. Deceased was a mason by profession and Tribunal has taken his wages as ₹100/- to ₹150/- per day while assessing his income as ₹4500/- per month. The accident had taken place in the year 2008. Claimants have alleged that the deceased was earning ₹11,000/- to ₹12,000/- per month. However, they could not produce any documentary evidence in support of their contention. Keeping in view above facts, the Tribunal has rightly assessed income of the deceased as ₹4500/- per month and I find no reason to interfere with assessment of income of deceased by Tribunal. As per law

settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, claimants are entitled to 25% addition in income of the deceased towards future prospects. Keeping in view the year of accident and price index prevailing at that time lump sum compensation of ₹50,000/- is awarded to claimants under the conventional heads i.e. loss of consortium, loss of estate and funeral expenses.

7. Learned counsel for appellants has argued that after the accident till his death on 14.10.2008, the deceased remained admitted in hospital. Though, the Tribunal has awarded a sum of ₹21328/- towards treatment expenses, but it has not awarded any compensation towards attendant charges, transportation charges and special diet for the deceased.

8. The accident took place on 14.09.2008. For a period of about one month, the deceased remained admitted in hospital, where he was required to be attended by some family member or paid attendant for all the 24 hours in shifts. Towards expenses of attendant(s), their transportation and nutritious diet required for the deceased during the period he remained admitted in hospital, lump sum compensation of ₹20,000/- is awarded to claimants.

9. In view of my above discussion compensation, to which claimants-appellants are entitled, is computed as follows:-

(i)	Monthly income of the deceased as assessed by the Tribunal	₹4500 per month
(ii)	25% of (i) above added towards future prospects	(₹4500+ ₹1125)= ₹5625 per month
(iii)	1/3rd of (ii) above deducted towards personal expenses	(₹5625- ₹1875) = ₹3750 per month
(iv)	Compensation calculated after applying the multiplier of 14 in view of age of the deceased	(₹3750X12X14) = ₹630000

(v)	Compensation towards loss of consortium, loss of estate and funeral expense	₹50000
(vi)	Compensation towards attendant charges, transportation charges and nutritious diet	₹20000
(vii)	Medical expenses	₹21328 (rounded off to ₹21350)
Total		**₹721350**

10. 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 **Kanshi Ram** is enhanced from **₹5,35,400/-** to **₹7,21,350/-**. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of instant appeal till actual realization. Respondent no. 2-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 follows:-

(i) Appellant no. 1 : 60%

(ii) Appellants no. 2 and 3 : 20% each.

11. In the event of demise of any of the claimants before or after disposal of this appeal, compensation of his/her share shall be paid to surviving claimants.

May 02, 2018 **(SURINDER GUPTA)**
jk **JUDGE**

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