IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.6699 of 2015 (O&M)
Date of Decision: January 22, 2018.

Pushpinderjit Kaur and others
..........APPELLANT(s).

VERSUS

Bhupinder Singh and others
........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vikram Bali, Advocate
for the appellant (s).

Mr. S.S. Sidhu, Advocate
for respondent No.2-insurance company.

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SURINDER GUPTA, J.

Motor Accident Claims Tribunal, SBS Nagar (hereinafter referred to as 'the tribunal') vide award dated 31.03.2014 allowed compensation of ₹33,49,494/- for death of Narinder Singh, husband of appellant No.1, father of appellant No.2 and son of proforma respondent No.3, in a motor vehicle accident with tractor bearing registration No.PB-52-9052.

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

The compensation awarded was computed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Narinder Singh
(ii)	Age of the deceased	42 years
(iii)	Income of the deceased	₹31989 p.m. (as per salary certificate.

(iv)	Deduction towards personal expenses @ 1/3rd	₹31989-₹10663= ₹21326 p.m.(₹255912 per annum)
(v)	Less 10% towards TDS	₹255912-25591= ₹230312/- per annum.
(vi)	Multiplier applied 14	₹230312X14 = ₹3224494/-
(vii)	Loss of consortium	₹100000
(viii)	Funeral expenses	₹25000/-
Total		₹33,49,494/-

Learned counsel for the appellants has argued that the deceased was 42 years old and was serving in Punjab Police as Head Constable. The tribunal has not allowed any addition in the income of the deceased towards future prospects, which as per observations of Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121*** is 30% and the observation to this extent has been upheld by Constitution Bench of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***. The appellants are also entitled to compensation of ₹15,000/- for loss of estate as per the observations in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***.

Learned counsel for insurance company though has not conceded the submissions of learned counsel for the appellants but could not rebut the same in view of the observations of Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)*** and ***National Insurance Company Limited Vs. Pranay Sethi and others (supra).*** He has, however, argued that the tribunal has allowed compensation of ₹1 lakh towards loss of consortium and ₹25,000/- towards funeral expenses, which is on higher side if the law laid down in case of ***National Insurance Company Limited Vs. Pranay Sethi and others***

(supra) is applied to the present case.

The tribunal has made deduction of 10% towards TDS, out of total income of the deceased. However, keeping in view the slab of income tax for the financial year 2012-13, income upto ₹2,00,000/- was totally exempted from income tax. As per salary certificate, annual income of the deceased was ₹31,989X12=₹3,83,868/-. Though no evidence has come on record about total savings of the deceased, which were exempted under Section 80C of the Income Tax Act, still this fact can be taken note that deductions towards provident fund were being made from his salary, which can be taken as 10% of gross salary, as such, the exemption on this score from the salary of the deceased can be taken as ₹38,387/-. After deducting 10% of his salary towards his savings exempted from income tax, his annual income works out to ₹3,45,481/-.

Taking note of the observations in the aforesaid citations, the compensation to which the claimants are entitled, is computed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Net annual income of the deceased	₹31989X12=₹383868
(ii)	Less assessed contribution in provident fund @ 10%	₹383868-38387= ₹345481/-
(iii)	Less income tax as per slab in the financial year 2012-13(Assessment Year 2013-14)	(₹345481-₹14548)= ₹330933/-
(iv)	30% of above (i) to be added as future prospects	(₹330933+₹99280)= ₹430213 per annum
(v)	Deduction of 1/3rd towards personal expenses of the deceased	₹430213-₹143404= ₹286809/-
(vi)	Compensation after multiplier of 14 is applied	(₹286809X14)= ₹4015236/-
(vii)	Loss of consortium	₹40000
(viii)	Loss of estate	₹15000
(ix)	Funeral expenses	₹15000
Total		₹40,85,326/-

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 ₹33,49,494/- to ₹40,85,326/- for death of Narinder Singh. 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 compensation shall be apportioned between the claimants as follows:-

1. Smt. Pushpinderjit Kaur, widow	: 50%
2. Harpreet Singh, minor son	: 25%
3. Kartar Kaur, mother of the deceased	: 25%

Respondent No.2-insurance company will deposit the shares of appellant-claimant No.1 and proforma respondent No.3 in their bank accounts or pay the same through demand drafts. The share of minor appellant No.2, will be deposited in some nationalised bank as fixed deposit till the period he attains majority. It is, however, made clear that the bank may take the documents regarding the age of the minor as required at the time of deposit of the amount and the minor shall not be asked to bring the fresh order from the tribunal to get the payment of the amount deposited in his names after the date of attaining majority. The above direction has been issued to save the claimant(s) from unnecessary harassment caused due to directions the bank usually give to bring the order of the tribunal to get the payment even after attaining the age of majority. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant (s), his/her share of compensation shall be apportioned equally amongst other surviving claimants. The counsel fee is assessed ₹20,000/-.

(SURINDER GUPTA)
JUDGE

January 22, 2018.
Sachin M.

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No