

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.8422 of 2014 (O&M)
Date of Decision: February 09, 2018.

Pushpa Rani
.....APPELLANT(s).

VERSUS

Radhey Shyam and others
.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Dheeraj Narula, Advocate
for the appellant (s).

Mr. D.P. Gupta, Advocate
for respondent No.3-insurance company.

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the tribunal') vide award dated 26.10.2013 allowed compensation of ₹2,29,000/- to appellant for death of her husband Gopal Dass, in a motor vehicle accident with Truck/Trolla bearing registration No.RJ-13G/8373.

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 by the tribunal was computed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Gopal Dass
(ii)	Age of the deceased	66 years
(iii)	Income of the deceased	₹5000/- p.m.
(iv)	Deduction towards personal expenses 1/3	₹5000-1667=₹3333 p.m.= ₹39,996/- p.a. (rounded off ₹40000/-p.a.)

(v)	Multiplier applied 5	₹40000X5 = ₹200000/-
(vi)	Loss of consortium	₹10000
(vii)	Loss of love and affection	₹25000
(viii)	Funeral expenses	₹2000
(ix)	Transportation	₹2000
<i>Total</i>		₹2,29,000/-

Learned counsel for the appellant-claimant has argued that the tribunal has allowed multiplier of 5 by taking age of the deceased as 66 years. In the claim petition, age of the deceased was mentioned as 65 years at the time of accident. Pushpa Rani, while appearing as PW8 has stated that her husband was 65 years of age at the time of accident. Her statement to this effect is unrebutted. The tribunal also observed that *“it can be safely concluded that age of Gopal Dass was 65-66 years at the time of accident.”* However, while applying the multiplier, age was taken as 66 years. Firstly, age of the deceased was 65 years and secondly, even if it is taken between 65 and 66, the multiplier to be applied in this case is 7 and not 5.

Learned counsel for the respondent-insurance company has argued that the deceased was ex-serviceman and the claimant had not produced any document regarding date of birth of deceased, as such, the tribunal on the basis of entry in the post-mortem report, has rightly taken his age as 66 years and applied the multiplier accordingly.

On giving a careful thought to the respective submissions of learned counsel for the parties, I find that Pushpa Rani while appearing as PW8, has stated the age of her husband as 65 years. Her statement is unrebutted. So far as the entry about age of the deceased as recorded in the post-mortem report is concerned, same is not authentic. Doctor may have mentioned this age on the asking of anyone present at the spot. Keeping in

view unrebutted statement of Pushpa Rani, I am of the view that age of the deceased can be taken as 65 years and the multiplier, which can be applied in this case, as per observations in case of *Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121*, while computing the amount of compensation on account of loss of dependancy, is 7.

Taking note of the above discussion, the compensation to which the claimant is entitled, is computed as follows:-

Sl.No.	Heads	Calculation
(i)	Income of the deceased	₹5000 per month
(ii)	Deduction towards personal expenses 1/3	₹5000-1667=₹3333 p.m. = ₹39,996/- p.a. (rounded off ₹40000/-p.a.)
(iii)	Compensation after multiplier of 7 is applied	(₹40000X7)= ₹280000/-
(iv)	Loss of consortium	₹40000
(v)	Funeral expenses	₹15000
Total		₹3,35,000/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellant-claimant is enhanced from ₹2,29,000/- to ₹3,35,000/- for death of her husband Gopal Dass. The enhanced amount of compensation will carry interest @ 7% per annum from the date of filing of the appeal till actual realisation. Respondent No.3-insurance company will deposit the share of appellant-claimant in their bank account or pay the same through demand draft. The claimant shall also be entitled to costs of this appeal. The counsel fee is assessed ₹20,000/-.

February 09, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No