

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 785 of 2015 (O&M)
Date of Decision : 20.03.2018

Hasan Mohd. and othersAppellants

Versus

Laxmaiah Balebonia and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arjun Atri, Advocate
for the appellants.

Mr. G.D. Gupta, 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, Mewat (later referred to as ‘the Tribunal’) for death of Aabid (later referred to as ‘the deceased’), in a motor vehicle accident on 23.09.2013 with vehicle bearing registration no. AP-24-TA-8919 (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. The Tribunal vide award dated 21.08.2014 awarded compensation of ₹10,44,511/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Aabid
(ii)	Age of the deceased	28 years
(iii)	Monthly income of the deceased as assessed by the Tribunal	₹5750/-
(iv)	1/5 th of (iii) above deducted towards personal expenses	₹5750- ₹1150) = ₹4600 per month

(v)	Compensation calculated after applying the multiplier of 17	(₹4600X12X17) = ₹938400
(vi)	Compensation for loss of consortium	₹10000
(vii)	Compensation for transportation of dead body of deceased and funeral expenses	₹96111
Total		₹1044511

4. Learned counsel for appellants has argued that claimants are entitled to addition in income of the deceased towards future prospects and compensation on conventional heads 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.** He has submitted that compensation awarded to claimants may be enhanced accordingly.

5. Learned counsel for respondent no. 3-Insurance Company has argued that though claimants are entitled to addition in income of the deceased towards future prospects but the Tribunal in this case has allowed a sum of ₹96,111/- towards transportation of dead body of the deceased and funeral expenses, which is on higher side. As per observations of Hon'ble Apex Court in case of **Pranay Sethi (supra)**, claimants are entitled to compensation of ₹15,000/- on this score.

6. The deceased was 28 years of age at the time of his death and was a driver by profession. As per observations of Hon'ble Apex Court in case of **Pranay Sethi (supra)**, claimants are entitled to 40% addition in income of the deceased towards future prospects. They are also entitled to compensation of ₹40,000/- towards loss of consortium for claimant-appellant no. 3-Jamsheda, his wife and ₹15,000/- towards loss of estate. The Tribunal has allowed compensation of ₹96,111/- towards transportation of dead body of the deceased and funeral expenses. This amount has been allowed keeping

and receipt of Nizam's Institute of Medical Sciences towards mortuary charges, which shows that claimants had incurred expenses of ₹96,111/- towards preservation and transportation of dead body. When actual amount of transportation, preservation and funeral expenses has been proved on record, I find no weight in submissions of learned counsel for respondent no. 3-Insurance Company that compensation under this head should be restricted to ₹15,000/- as awarded by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***.

7. 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	₹5750 per month
(ii)	40% of (i) above added towards future prospects	(₹5750+ ₹2300)= ₹8050/- per month
(iii)	1/5 th of (ii) above deducted towards personal expenses	(₹8050- ₹1610) = ₹6440 per month
(iv)	Compensation calculated after applying the multiplier of 17 in view of age of the deceased	(₹6440X12X17) = ₹1313760
(v)	Compensation towards transportation of dead body and funeral expenses as assessed by the Tribunal	₹96111
(vi)	Compensation towards loss of consortium	₹40000
(vii)	Compensation towards loss of estate	₹15000
<i>Total</i>		₹1464871 (rounded off to ₹1464900)

8. 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 Aabid is enhanced from ₹10,44,511/- to ₹14,64,900/-. 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. 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 enhanced amount of compensation as per award.

9. The share of claimants-appellants No. 4 to 8, 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-appellant no. 3-Jamsheda, 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.

10. 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.

March 20, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No