

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 947 of 2015 (O&M)
Date of Decision : 17.04.2018

Usha Rani and anotherAppellants

Versus

Rajinder Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Swarn Tiwana, Advocate
for the appellants.

None for respondents no. 1 and 2.

Mr. S.S. Sidhu, Advocate
for respondent no. 3-Insurance Company.

Surinder Gupta, J.

This is an 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 Prem Chand @ Bahadur (later referred to as ‘the deceased’), in a motor vehicle accident on 24.01.2013 with bus bearing registration no. PB-23-2378 (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 25.08.2014 awarded compensation of ₹7,10,000/- to claimants-appellants, which was computed as follows:-

(i)	Name of the deceased	Prem Chand @ Bahadur
(ii)	Age of the deceased	50 years

(iii)	Monthly income of the deceased as assessed by the Tribunal	₹5000
(iv)	1/4 th of (iii) above deducted towards personal expenses	(₹5000- ₹1250) = ₹3750 per month
(v)	Compensation calculated after applying the multiplier of 13	(₹3750X12X13) = ₹585000
(vi)	Compensation for loss of consortium	₹100000
(vii)	Compensation for funeral expenses	₹25000
Total		₹710000

4. Learned counsel for appellants has argued that as per statement regarding contribution to E.P.F. of the deceased, placed on record as mark 'A' to mark 'F', he was getting salary of ₹5500/- per month at the time of his death while the Tribunal has assessed his monthly income as ₹5000/-. Relying on observations of Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, he has argued that claimants are also entitled to 25% addition in income of the deceased towards future prospects alongwith compensation under the conventional heads.

5. Learned counsel for respondent no. 3-Insurance Company has argued that there was no documentary evidence duly proved on record that the deceased was getting salary of ₹5500/- per month. The Tribunal has rightly ignored the marked documents. As per observations of Hon'ble Apex Court in case of **Pranay Sethi (supra)**, claimants are entitled to 10% addition in income of the deceased towards future prospects as he was 50 years of age. He further submits that the deceased has left behind wife and son as his dependants and as per law settled by Hon'ble Apex Court in above referred case, 1/3rd deduction is to be made from income of the deceased towards his personal expenses while the Tribunal has made 1/4th deduction.

6. Firstly, I have a look at the evidence produced by claimants

regarding income of the deceased. While appearing as CW-1 Usha Rani, wife of the deceased, has claimed income of the deceased as ₹12000/- per month but admittedly she has not produced on record any document showing his income as ₹12000/- per month. She has, however, stated that her husband was employed as Supervisor/Guard in Saint Farid Public School, Amloh. Her statement finds support from documents placed on file as mark 'A' to mark 'F', which show that the deceased was employed in Saint Farid Public School, Amloh. Contribution towards his E.P.F. was being made. Copy of form 3-A shows that the deceased was earlier getting salary of ₹5000/- per month upto October, 2012 but w.e.f. November, 2012 he was getting salary of ₹5500/- per month. The Tribunal has ignored these documents with the observation that these have not been duly proved but keeping in view the fact that proceedings before the Tribunal are of summery nature and there is no rebuttal to these documents, which are copies of official record, a note can be taken of salary of the deceased as mentioned in form 3-A. Income of the deceased as such is assessed as ₹5500/- per month. Hon'ble Apex Court in case of **Pranay Sethi (supra)** has observed that in case of deceased in a motor accident, who is in the age group of 40 to 50 years, and is in private service 25% addition in his income is to be allowed towards future prospects. Besides this claimants are also entitled to compensation of ₹70,000/- under the conventional heads of loss of estate, loss of consortium and funeral expenses. The deceased has left behind wife and son as his dependant, as such, as per law settled by Hon'ble Apex Court in above referred case, 1/3rd deduction from income of the deceased is to be made towards his personal expenses.

7. In view of my above discussion compensation, to which

claimants-appellants are entitled, is computed as follows:-

(i)	Monthly income of the deceased	₹5500 per month
(ii)	25% of (i) above added towards future prospects	(₹5500+ ₹1375)= ₹6875 per month
(iii)	1/3 rd of (ii) above deducted towards personal expenses	(₹6875- ₹2292) = ₹4583 per month
(iv)	Compensation calculated after applying the multiplier of 13 in view of age of the deceased	(₹4583X12X13) = ₹714948
(v)	Compensation towards loss of consortium	₹40000
(vi)	Compensation towards loss of estate	₹15000
(vii)	Compensation towards funeral expenses	₹15000
Total		₹784948 (rounded off to ₹784950)

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 **Prem Chand @ Bahadur** is enhanced from **₹7,10,000/-** to **₹7,84,950/-**. 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. 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.

April 17, 2018
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No