IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5872 of 2002 (O&M)
Date of Decision : 27.02.2019

Jyoti and others .....Appellants

Versus

Devinder Singh and another .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Vermani, Advocate for the appellants.

Mr. Vinod Chaudhary, Advocate for respondent no. 2.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Gurgaon, now Gurugram, (later referred to as 'the Tribunal') for death of Jitender Kumar (later referred to as 'the deceased'), in a motor vehicle accident on 31.12.2000 with dumper bearing registration no. HR-10GA-0174 (later referred to as 'the offending vehicle').

2. 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.

3. The compensation awarded by the Tribunal was computed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Jitender Kumar
(ii)	Age of the deceased	30 years
(iii)	Educational qualification of the deceased	10+2 (passed B.A. Part I, examination)
(iv)	Profession as alleged by claimants	Shop of motor winding, coolers and electric fittings
(v)	Income of the deceased	₹2100 per month

(vi)	1/3rd of (v) above deduced towards personal expenses of the deceased	(₹2100-700)= ₹1400
(vii)	Compensation after applying the multiplier of 16	(₹1400X12X16)=₹268800
(viii)	Funeral expenses	₹6200
Total		₹275000

4. Learned counsel for the appellants has argued that the Tribunal has observed that the deceased was an electrician and running his shop at Sohna. The Tribunal assessed income of the deceased as ₹2100/- per month, which is on lower side. In the year 2000, a shopkeeper could easily earn around ₹5000/- per month. Though, claimants could not produce any documentary evidence regarding income of the deceased but the Tribunal could take judicial note of the fact that even a labourer was earning around ₹100/- per day in the year 2000. In the financial year 2000-2001, a person with income upto ₹50,000/- was not required to pay any income tax, as such, the Tribunal could safely take income of the deceased below the limit of income tax. He has further argued that claimants are also entitled to 40% addition in income of the deceased towards loss of future prospects and the multiplier, as per age of the deceased, attracted in this case is 17 while the Tribunal has applied the same as 16 while computing the amount of compensation.

5. Learned counsel for respondent no. 2-Insurance Company has argued that the Tribunal while awarding compensation has taken the money value prevailing at the time when the accident took place. Though, the law with regard to grant of compensation has seen many changes in the last 18/19 years but for the case decided 17 years back, the compensation cannot be allowed as per law settled in the case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***.

6. Firstly, I take a look at the question of assessment of income of the deceased and observation of the Tribunal on this score. Claimants have alleged that the deceased had a shop at Sohna and was also doing business of motor winding, coolers and electric fittings. He was also an electrician. The Tribunal observed that the evidence on file suggest that the deceased was an electrician and running his shop at Sohna but keeping in view the fact that claimants have not produced any sale tax number and documents regarding income of the deceased, his income was assessed as ₹2100/- per month.

7. In the financial year 2000-2001, income upto ₹50,000/- was not taxable. For the status of a person, who was having a shop and doing job of an electrician as well, income could certainly be assessed better than the minimum wages fixed for a skilled worker. I am of the opinion that income of the deceased assessed as ₹2100/- per month is on lower side. The same should be assessed at least ₹3000/- per month. The deceased was in the age group of 26/27 years but the Tribunal has taken his age as 30 years. The multiplier attracted in this case as per law settled by Hon'ble Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121*** is 17. Claimants are also entitled to 40% addition in income of the deceased towards loss of future prospects. Keeping in view the fact that the accident had taken place in the year 2000, claimants are allowed lump sum compensation of ₹40,000/- towards loss of consortium, loss of estate and funeral expenses.

8. Keeping in view the above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Monthly income of the deceased	₹3000
(ii)	40% of (i) above added towards future prospects	(₹3000+ ₹1200)= ₹4200 per month
(iii)	1/3rd of (ii) above deducted towards personal expenses	(₹4200- ₹1400) = ₹2800 per month
(iv)	Compensation calculated after applying the multiplier of 17	(₹2800X12X17) = ₹571200
(v)	Lump sum compensation for loss of consortium, loss of estate and funeral expenses	₹40000
	Total	**₹611200**

9. The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to appellants-claimants is enhanced from **₹2,75,000/-** to **₹6,11,200/-** for death of **Jitender Kumar**. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realization. The amount of enhanced compensation shall be apportioned between claimants in equal share. Respondent No.2-Insurance Company will deposit the share of appellants-claimants in their bank accounts or pay the same through demand draft.

10. In the event of demise of any of the claimant(s) before or after disposal of this appeal, compensation of his/her share shall be paid to surviving claimant(s).

February 27, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*