IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 348 of 2003 (O&M)
Date of Decision : 19.03.2019

Manjeet Kaur and another .....Appellants

Versus

Kulwant Singh and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: None.

Surinder Gupta, J.

Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') vide award dated 08.11.2002 allowed compensation of ₹3,17,200/- for death of Sukhbir Singh (later referred to as ‘the deceased’) in a motor vehicle accident with truck bearing registration No.HR-06G-0640 (later referred to as 'the offending vehicle').

2. As the only relief sought in this appeal is for enhancement 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:-

(i)	Name of the deceased	Sukhbir Singh
(ii)	Age of the deceased	32 years
(iii)	Date of accident	21.02.2002
(iv)	Marital status	Married
(v)	Income of the deceased	₹2400 per month
(vi)	1/3rd of (v) above deducted towards personal expenses	(₹2400- ₹800) = ₹1600 per month (wrongly taken as ₹1800
(vii)	Compensation calculated after applying the multiplier of 16	(₹1800X12X16) = ₹345600
(viii)	Compensation towards funeral expenses.	₹10000
	Total	**₹355600 (wrongly assessed as ₹317200)**

4. The appellants have alleged that the deceased was working as contractor in Municipal Committee, Karnal and Marketing Board, Karnal and was earning ₹20,000/- to ₹25,000/- per month but the Tribunal has wrongly assessed his income as ₹2400/- per month. While assessing income of the deceased, the evidence produced on record has been ignored. The deceased was 32 years of age and the multiplier of 16 was also wrongly applied.

5. As per law settled by Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***, claimants are entitled to 40% addition in income of the deceased towards loss of future prospects. The deceased was 32 years of age and as per observations of Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, the Tribunal has rightly applied the multiplier of 16 and made deduction of 1/3rd from income of the deceased. The accident had taken place in the year 2002 and keeping in view the money value prevailing at that point of time claimants are allowed lump sum compensation of ₹40,000/- under the conventional heads.

6. The question, which arises for consideration, is as to whether income of the deceased as assessed by the Tribunal is based on evidence on record. Manjeet Kaur wife of the deceased while appearing as PW-1 has stated that the deceased was earning ₹20,000/- to ₹25,000/- per month from his job as contractor in Municipal Committee, Karnal and Marketing Board, Karnal. PW-2 Suresh Kumar has also stated that the deceased was earning ₹20,000/- to ₹25,000/- and has placed on file copies of some of the work orders allotted to him as Ex. P-1 to Ex. P-5. Income tax returns of the

deceased for the year 2001-2002 (Ex. P-10) and for the year 2000-2001 (Ex. P-11) were also placed on file. So far as oral testimonies of the witnesses are concerned, the same cannot be of any help to arrive at the conclusion regarding income of the deceased. Copies of work orders issued by the Municipal Engineer, Karnal and Executive Officer, Karnal (Ex. P-1 to Ex. P-5) are also not helpful to record the finding regarding exact income of the deceased. The most important document in this regard is income tax returns placed on file. The accident had taken place on 21.02.2002. Income tax return (Ex. P-10) depicts income of the deceased for the year 2001-2002 as ₹77,990/- in which agricultural income as ₹25000/- was added. This return appears to have been filed on 18.09.2002 i.e. after the death of deceased. In the earlier income tax return (Ex. P-11) for the year 2000-2001, income of the deceased has been shown as ₹42000/- per annum. In this return income tax of ₹11350/-, which was deducted at source was sought. This income tax return (Ex. P-11) appears to be genuine. Even if a marginal enhancement in income of the deceased be considered, the same can be assessed as ₹50000/- per annum at the time of his death. Income of the deceased as ₹2400/- per month as assessed by the Tribunal is on very lower side and not in accordance with evidence on record. Consequently, I assess income of the deceased as ₹50000/- per annum.

7. In view of above, compensation to which claimants-appellants are entitled, is reassessed as follows:-

(i)	Name of the deceased	Sukhbir Singh
(ii)	Age of the deceased	32 years
(iii)	Annual income of the deceased	₹50000
(iv)	40% of (iii) above added towards future prospects	(₹50000+ ₹20000)= ₹70000 per annum

(v)	1/3rd of (iv) above deducted towards personal expenses	(₹70000- ₹23333) = ₹46667 per annum
(vi)	Compensation calculated after applying the multiplier of 16 as per age of the deceased/	(₹46667X16) = ₹746672
(vii)	Lump sum compensation under the conventional heads	₹40000
Total		**₹786672 (rounded off to ₹786670)**

8. As a sequel of my discussion above, this appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of **Sukhbir Singh** is enhanced from **₹3,17,200/-** to **₹7,86,670/-**. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realization. The enhanced amount of compensation shall be shared by claimants as per award. Respondent no. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank accounts or pay the same through demand drafts.

9. 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).

March 19, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*