**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

FAO No.2447 of 2004 (O&M)
Date of Decision: February 28, 2019.

Ram Rati and others

..........APPELLANT(s).

VERSUS

Satish Kumar and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Shiv Kumar, Advocate
for the appellant (s).

Mr. R.C. Gupta, Advocate for
Mr. D.K. Dogra, Advocate
for respondent No.3-insurance company.

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SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the tribunal') vide award dated allowed compensation of ₹2,26,060/- for death of Dharambir, husband of appellant No.1, father of appellants No.2 to 4 and son of appellant No. 5, in a motor vehicle accident with Dumper bearing registration No.HR-38/D-3131.

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)	Name of the deceased	Dharambir

(ii)	Age of the deceased	28 years
(iii)	Income of the deceased	₹2100 p.m.
(iv)	Deduction towards personal expenses 1/3rd	₹2100-700=₹1400 p.m. i.e. ₹16800 p.a.
(v)	Multiplier applied 13 (though it is mentioned as 18 in the award)	₹16800X13 = ₹2,18,400/-
(vi)	Last rites of the deceased	₹7000
	Total	₹2,25,400/- (wrongly calculated as ₹2,26,060/-

Learned counsel for the appellants has argued that the deceased was self employed and claimants are entitled to addition of 40% in the income of the deceased towards loss of future prospects and are also entitled to compensation under the conventional heads as per the observations in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***. He has further argued that the tribunal has wrongly applied the multiplier of 13 while calculating the amount of dependancy, however, same has been mentioned as 18 in the award. As per law laid down by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121,*** $1/4^{th}$ of income of the deceased is to be deducted as his personal expenses instead of $1/3^{rd}$ as applied by the tribunal.

Learned counsel for respondent No.3-insurance company could not dispute the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)*** and ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra)*** and also conceded about the miscalculation done by the tribunal while calculating the amount of compensation.

The deceased was 28 years of age at the time of his death. He left behind five dependants i.e. wife, three minor children and mother, as such, in view of the law laid down by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra),*** 1/4th of the income of the deceased is to be deducted towards his personal expenses and the multiplier of 17 is applicable in this case. As per the law laid down by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra),*** the claimants are entitled to 40% addition in the income of the deceased towards loss of future prospects. Since the accident took place in the year 2002, a lump sum compensation of ₹40,000/- is awarded under the conventional heads.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹2100 per month
(ii)	40% of above (i) to be added as loss of future prospects	(₹2100+₹840__)= ₹2940 per month
(iii)	Deduction of 1/4th towards personal expenses of the deceased	(₹2940-₹735)= ₹2205 per month
(iv)	Compensation after multiplier of 17 is applied	(₹2205X12X17)= ₹449820
(v)	Compensation under the conventional heads (loss of consortium, loss of estate, funeral expenses).	₹40000
Total		₹4,89,820/-

The appeal has merits and is accepted. The award of the tribunal is modified and the compensation allowed to the appellants-claimants is enhanced from ₹2,26,060/- to ₹4,89,820/- for death of Dharambir. Liability to pay the amount of compensation shall be as per award. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realisation. The amount of enhanced compensation shall be apportioned between the claimants as follows:-

(i) Appellant-claimant No.1-widow : 40%

(ii) Appellants-claimants No.2 to 5 : 15% each

Respondent-insurance company will deposit the shares of appellants-claimants in their bank accounts or pay the same through demand drafts. The claimants shall also be entitled to costs of this appeal. In case of demise of any of above claimant(s) before his/her share of compensation is disbursed, the same shall be apportioned equally amongst other surviving claimants.

(SURINDER GUPTA)
JUDGE

February 28, 2019.
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No