IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 2573 of 2005 (O&M)
Date of Decision : 01.03.2019

Om Parkash @ Parkash and another .....Appellants

Versus

Surinder and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Anil Ghanghas, Advocate
for the appellants.

Mr. Sunil Saharan, Advocate
for respondent no. 1.

Mr. Paul S. Saini, Advocate
for respondent no.3.

Surinder Gupta, J.

Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 03.03.2005 allowed compensation of ₹1,60,000/- for death of Sombir (later referred to as 'the deceased') in a motor vehicle accident with Jeep bearing registration No.HR-16A-0229 (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	Sombir
(ii)	Age of the deceased	19/20 years

(iii)	Date of accident	29.05.2002
(iv)	Marital status	Unmarried
(v)	Income of the deceased	₹15000 per annum
(vi)	½ of (v) above deducted towards personal expenses	(₹15000- ₹5000) = ₹10000 per annum
(vii)	Compensation calculated after applying the multiplier of 15	(₹10000X15) = ₹150000
(viii)	Compensation towards loss of estate and funeral expenses	₹10000
Total		**₹160000**

4. Learned counsel for the appellants has argued that the deceased was a brilliant student and had been helping his father, namely, Om Parkash @ Parkash in his agriculture work. Om Parkash @ Parkash, father of the deceased, while appearing as PW-1 has stated that monthly income of the deceased was ₹4000/- but the Tribunal has taken his income as provided under the 2nd Schedule under Section 163-A of the Motor Vehicles Act, 1988 (later referred to as 'the Act'). The petition was filed under Section 166 of the Act and the Tribunal while assessing income of the deceased should have looked into the fact that the deceased was an able bodied person and value of his services could be equated with at least a daily wager. He has further argued that as per law settled by Hon'ble 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 and the multiplier attracted in this case is 18.

5. Learned counsel for respondent no. 3-Insurance Company has argued that the deceased was a student and the Tribunal has rightly assessed

his income as ₹15,000/- per annum. He was unmarried as such ½ of his income is to be deducted towards his personal expenses instead of 1/3rd as deducted by the Tribunal. He has, however, not disputed the grant of compensation under the head of loss of future prospects and application of multiplier as per law settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***.

6. The deceased was unmarried boy of 19/20 years of age. Though, no evidence has come on record with regard to income of the deceased but still keeping in view the fact that he was an able bodied person, who could earn not less than minimum wages prescribed for a daily wager, his income is assessed as ₹2100/- per month. As he was unmarried, ½ of his income is to be deducted towards his personal expenses and the multiplier applicable in this case, as per law settled in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121,*** is 18. The amount allowed towards loss of estate and funeral expenses calls for no interference keeping in view the fact that the accident had taken place in the year 2002.

7. In view of submissions of learned counsel for parties and law laid down by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***, compensation awarded in this case is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Sombir
(ii)	Age of the deceased	19/20 years
(iii)	Monthly income of the deceased	₹2100
(iv)	40% of (iii) above added towards future prospects	(₹2100+ ₹840)= ₹2940 per month
(v)	½ of (iv) above deducted towards personal expenses	(₹2940- ₹1470) = ₹1470 per month

(vi)	Compensation calculated after applying the multiplier of 18	(₹1470X12X18) = ₹317520
(vii)	Lump sum compensation towards loss of estate and funeral expenses as allowed by the Tribunal	₹10000
Total		**₹327520**

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 claimant for death of **Sombir** is enhanced from **₹1,60,000/-** to **₹3,27,520/-**. 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 the claimants in equal share. Respondent No. 3-Insurance Company will deposit the share of claimants in their bank accounts or pay the same through demand draft.

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 01, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*