IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.5337 of 2009 (O&M)
Date of Decision: May 20, 2019.

Shiv Kumar and others

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

VERSUS

Kabir and others

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

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Sanya Sapra, Advocate for
Mr. Sandeep Sharma, Advocate
for the appellant (s).

Mr. Aseem Aggarwal, Advocate for
Mr. Harsh Aggarwal, Advocate
for respondent No.4-insurance company.

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SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the tribunal') vide award dated 20.04.2009 allowed compensation of ₹5,77,000/- for death of Raj Rani, wife of appellant No.1 and mother of appellants No.2 and 3, in a motor vehicle accident with Max jeep bearing registration No. HR-55-BT-7232.

As the only issue pressed 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	Raj Rani
(ii)	Date of accident	17.04.2007
(iii)	Age of the deceased	28 years
(iv)	Income of the deceased	₹4500 p.m.
(v)	Deduction towards personal expenses 1/3	₹4500-1500=₹3000 p.m. i.e. ₹36000 p.a.
(vi)	Multiplier applied 15	₹36000X15 = ₹540000/-
(vii)	Medical expenses	₹27000
(viii)	Transportation and funeral expenses	₹10000
Total		₹5,77,000/-

Learned counsel for the appellants has argued that deceased was employed as Guest Teacher in Govt. School and was getting ₹225/- per days as salary. The tribunal has taken her monthly income as ₹4,500/- despite the fact that in the month of November, 2006, her salary was ₹5400/-. Besides performing her duties in the school, she was also looking after her minor children and her husband and nothing was allowed to the claimants on this score. She further argues that as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***, claimants are entitled to addition of 40% in the income of the deceased towards loss of future prospects and multiplier applicable in this case is 17, while the tribunal has applied the multiplier of 15. Claimants are also entitled to compensation under the conventional heads as per the observations in the above referred case.

Learned counsel for respondent-insurance company has argued that keeping in view the evidence on record regarding salary of the deceased as ₹225/- per day as Guest Teacher, the tribunal has rightly assessed her average monthly income as ₹4,500/-. However, he has no objection in reassessing the compensation as per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***.

This fact has not been disputed that the deceased was working as Guest Teacher in a Govt. School. To prove her employment and salary, claimants examined Charan Singh PW13, who has stated that the deceased was working as JBT Guest Teacher in Govt. School at the salary of ₹225/- per day. The tribunal took note of the salary drawn by her from October, 2006 onwards, which was between ₹2,925/- to ₹5,400/- per month. The tribunal also took note of the fact that wages of the Guest Teachers have been revised by the Government while assessing income of the deceased as ₹4,500/- per month. From the statement of PW13 Charan Singh, it appears that Guest Teachers were being paid salary for the days they were attending the school and not for the Sundays and other Holidays.

The deceased had two minor children. Besides doing job, she was also looking after her minor children, her husband and other family members. Her death has resulted in loss of value of the services she was providing to the family. Keeping all these facts and circumstances in view, I am of the considered opinion that the income of the deceased can be assessed as ₹5,400/- per month. As per the law settled in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***, claimants are entitled to 40% addition in the income of the deceased towards loss of future prospects and multiplier applicable in this case is 17. Keeping in view the money value prevailing in the year 2007, claimants are also entitled to compensation ₹50,000/- 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	₹5400 per month
(ii)	40% of above (i) to be added as loss of future prospects	(₹5400+₹2160)= ₹7560 per month
(iii)	Deduction of 1/3rd towards personal expenses of the deceased	(₹7560-₹2520)= ₹5040 per month
(iv)	Compensation after multiplier of 17 is applied	(₹5040X12X17)= ₹1028160
(v)	Compensation under the conventional heads i.e. loss of consortium, loss of estate and funeral expenses	₹50000
(vi)	Medical expenses (as allowed by the tribunal)	₹27000
Total		₹11,05,160/-

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 ₹5,77,000/- to ₹11,05,160/- for death of Raj Rani. 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-husband :40%

(ii) Appellants-claimants No.2 and 3(minor children) :30% each.

Respondent-insurance company will deposit the share of appellant-claimant No.1 in his bank account or pay the same through demand drafts. The share of minor appellants No.2 & 3, who as per the memo of parties are still minor, will be deposited in some nationalised bank as fixed deposits till the period they attain majority. It is, however, made clear that the bank may take the documents regarding the age of the minors as required at the time of deposit of the amount and the minors shall not be asked to bring the fresh order from the tribunal to get the payment of the amount deposited in their name after the date of attaining majority. The above direction has been issued to save the claimants from unnecessary harassment caused due to directions the bank usually gives to bring the order of the tribunal to get the payment even after attaining the age of majority. 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

May 20, 2019.
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No