IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1271 of 2006 (O&M)
Date of Decision : 17.05.2019

Dayawati and others .....Appellants

Versus

Sajjan Kumar and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: None for the appellants.

Ms. Dimple Jain, AAG, Haryana
for respondents no. 2 and 3.

Mr. Vipul Sharma, Advocate
for respondent no.4.

Surinder Gupta, J.

Motor Accident Claims Tribunal, Sonepat (hereinafter referred to as 'the Tribunal') vide award dated 17.09.2005 allowed compensation of ₹9,00,000/- for death of Brahm Parkash (later referred to as ‘the deceased’) in a motor vehicle accident with truck bearing registration No.HR-69-2659 (later referred to as 'the offending vehicle').

2. As the only relief pressed 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:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Brahm Parkash
(ii)	Age of the deceased	38 years

(iii)	Date of accident	28.10.2004
(iv)	Marital status	Married
(v)	Income of the deceased	₹9000 per month
(vi)	1/3rd of (vi) above deducted towards personal expenses	(₹9000- ₹3000) = ₹6000 per month
(vii)	Compensation calculated after applying the multiplier of 12	(₹6000X12X12) = ₹864000
(viii)	Compensation towards last rites and funeral expenses	₹16000
(ix)	Compensation towards loss of consortium	₹20000
Total		**₹900000**

4. None has appeared for appellants. I have perused the paper-book with assistance of learned counsel for respondents and keeping in view nature of appeal, proceeded to decide it on merit.

5. Deceased was working as Junior Engineer in Maintenance and Protection Division, Dakshin Haryana Bijli Vitran Nigam, Faridabad, a Government concern and as per evidence on record, he was getting salary of ₹11,185/- per month. The Tribunal assessed his income as ₹9000/- per month with the observation that there was some deduction from his income towards income tax and provident fund. So far as deduction towards provident fund is concerned, the same is to be considered as part of his income. The income tax on salary of the deceased as per income tax slab for the year 2004-2005, works out to be ₹13160/- (rounded off to ₹13000/-) after deducting 10% provident fund from salary which would fall in exemption limit provided for investment of income in saving schemes of Government. He further argues that as per law settled in case of ***National Insurance Company Ltd.*** ***vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***, the multiplier attracted in this case is 15 as the deceased was 38 years of age. He left behind 5 dependants and even if father is not considered to be dependant, still deduction of 1/4th is to be made from income of the

deceased towards his personal expenses. Claimants are also entitled to 50% addition in income of the deceased towards loss of future prospects and compensation under the conventional heads as awarded by the Tribunal is on lower side.

6. Learned counsel for respondent no. 4 has argued that the Tribunal after deducting income tax has rightly taken income of the deceased as ₹9000/- per month. He has, however, not contested the grant of compensation as per law settled in case of ***Pranay Sethi (supra)*** but has argued that compensation under the conventional heads should be allowed keeping in view the money value prevailing at that point of time.

7. It is not disputed that the deceased was getting salary of ₹11,185/- per month out of which some deductions were being made towards his provident fund. Provident fund is part of salary and cannot be deducted from income of deceased. The slab of income tax during the year 2004-2005, as supplied by learned counsel for the appellants, was as follows:-

Slab (₹)	Tax (₹)	Surcharge on Income Tax (If TI > ₹8.50 lakhs) (₹)
Less than 50,000	Nil	Nil
50,000 to 60,000	(TI-50,000) * 10%	10%
60,000 to 1,50,000	1000+(TI-60,000) * 20%	10%
Greater than 1,50,000	19,000+(TI-1,50,000) * 30%	10%

8. As per above slab, ₹14,300/- tax including surcharge (as calculated by learned counsel for appellants) was payable on income of the deceased. After deducting tax of ₹14,300/-, net income of the deceased works out to be ₹1,19,920/-. As the deceased was employed as Junior

Engineer in Maintenance and Protection Division, Dakshin Haryana Bijli Vitran Nigam, Faridabad, claimants are entitled to 50% addition in his income towards loss of future prospects. The deceased has left behind five dependants and even if father of the deceased is not taken as dependant, 1/4th of his income is to be deducted towards his personal expenses and multiplier applicable is 15. Keeping in view money valued prevailing in the year 2004, claimants are allowed compensation of ₹50,000/- under the conventional heads i.e. ₹10,000/- towards funeral expenses, ₹10,000/- towards loss of estate and ₹30,000/- towards loss of consortium.

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

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Brahm Parkash
(ii)	Age of the deceased	38 years
(iii)	Annual income of the deceased	(₹11185X12)= ₹134220 per annum
(iv)	Income tax deducted from (iii) above	(₹134220-14300)= ₹119920 per annum
(v)	50% of (iv) above added towards future prospects	(₹119920+ ₹59960)= ₹179880 per annum
(vi)	1/4th of (v) above deducted towards personal expenses	(₹179880- ₹44970) = ₹134910 per annum
(vi)	Compensation calculated after applying the multiplier of 15	(₹134910X15) = ₹2023650
(vii)	Compensation towards loss of estate	₹10000
(viii)	Compensation towards funeral expenses	₹10000
(ix)	Compensation towards loss of consortium	₹30000
Total		**₹2073650**

10. 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 **Brahm Parkash** is enhanced from **₹9,00,000/-** to **₹2073650/-**. The enhanced amount of

compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realization. Respondent No. 4 being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank account or pay the same through demand draft. The enhanced amount of compensation shall be shared by claimants as follows:-

Appellant no. 1-wife	70%
Appellants no. 2 and 3 (son & daughter)	15% each

11. 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).

May 17, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

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