

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

**FAO No.182 of 2011 (O&M)
Date of Decision: March 08, 2019.**

Saroj Devi and others

.....APPELLANT(s).

VERSUS

Shankar Lal and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gopal Sharma, Advocate
for the appellant (s).

Mr. S.S. Kharb, Advocate
for respondents No.1 and 2.

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

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the tribunal') vide award dated 03.06.2010 allowed compensation of ₹4,77,938/- for death of Karan Singh(later referred to as the deceased), husband of appellant No.1, father of appellants No.2 to 4 and son of appellant No.5, in a motor vehicle accident with Bus bearing registration No.HR-67-6900.

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	Karan Singh
(ii)	Date of accident	05.12.2008
(iii)	Age of the deceased (DoB 14.05.1963)	45 year 6 months 21 days
(iv)	Income of the deceased (by treating him an unskilled worker)	₹3914 p.m. i.e. ₹46968 per annum
(v)	Deduction of 1/4 th towards personal expenses	₹46968-11742=₹35226 per annum
(vi)	Multiplier applied 13	₹35226X13 = ₹457938/-
(vii)	Loss of consortium	₹10000
(viii)	Last rites (funeral expenses)	₹10000
<i>Total</i>		₹4,77,938/-

Learned counsel for the appellants has argued that the deceased was an ex-serviceman. The tribunal has assessed his income as unskilled worker. Though the pleas of claimants that he was working as a security guard and was also having income from sale of milk, were not accepted, still an ex-serviceman cannot be equated with unskilled worker. Income of the deceased could be taken as a skilled worker. He has further argued 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 25% addition in the income of the deceased. As per his date of birth shown in his pension card as 14.05.1963, he was 45 years 6 months and 21 days old at the time of accident and as per the law settled by Hon'ble Apex Court in case of ***Shashikala and others vs. Gangalakshamma and another, 2015 (9) SCC 150***, the multiplier applicable in this case is of 14, while the tribunal has applied the multiplier of 13. Claimants are also entitled to compensation under the conventional heads as per the law settled in above referred ***Pranay Sethi case***.

Learned counsel for respondent No.3-insurance company has not disputed grant of compensation as per the law settled by Hon'ble Apex

Court in case of *National Insurance Company Limited Vs. Pranay Sethi and others (supra)*. However, he has argued that the claimants could not produce any evidence regarding income of the deceased, as such, the tribunal has rightly assessed income of the deceased as ₹3914/- per month, which call for no interference.

This fact is not disputed that the deceased was an ex-serviceman. Status of ex-serviceman while computing his income by using guess work, cannot be equated with an unskilled worker. At the most, his income can be equated with a skilled worker. Though no document has been produced regarding income of the skilled worker at the relevant time but keeping in view the fact that wages of unskilled worker at that time were ₹3914/-, income of the deceased is assessed as ₹4,200/- per month. Claimants are also entitled to addition of 45% in the income of the deceased towards future prospects of the deceased and the multiplier attracted in this case is 14. The accident had taken place in the year 2008. Keeping in view the money value prevailing at that time, claimants are awarded a lump sum compensation of ₹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:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Income of the deceased	₹4200 per month
(ii)	25% of above (i) to be added as loss of future prospects	(₹4200+₹1050)= ₹5250 per month
(iii)	Deduction of 1/4 th towards personal expenses of the deceased	(₹5250-₹1313)= ₹3937 per month
(iv)	Compensation after multiplier of 14 is applied	(₹3937X12X14)= ₹661416
(v)	Compensation under the conventional heads	₹50000
<i>Total</i>		₹7,11,416/-(rounded off ₹7,11,450/-)

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 ₹4,77,938/- to ₹7,11,450/- for death of Karan Singh. 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, who are major, in their bank accounts or pay the same through demand drafts. The share of minor appellant, if any, will be deposited in some nationalised bank as fixed deposit till the period he/she attains majority. It is, however, made clear that the bank may take the documents regarding the age of the minor(s) as required at the time of deposit of the amount and the minor(s) shall not be asked to bring the fresh order from the tribunal to get the payment of the amount deposited in his/her 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 give 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.

March 08, 2019.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***