IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 5925 of 2011 (O&M)
Date of Decision : 13.03.2019

Surender .....Appellant

Versus

Pappu Parshad and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vinod Gupta, Advocate
for Mr. Darshan Singh Bishnoi, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent no. 3.

Surinder Gupta, J.

Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 01.12.2010 allowed compensation of ₹3,77,000/- for death of Rameshwar (later referred to as 'the deceased') in a motor vehicle accident with tanker bearing registration No.PB-12L-2147 (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	Rameshwar
(ii)	Age of the deceased	50 to 55 years
(iii)	Date of accident	24.07.2009
(iv)	Marital status	Married
(v)	Income of the deceased	₹4500 per month
(vi)	1/2nd of (v) above deducted towards personal expenses	(₹4500- ₹2250) = ₹2250 per month
(vii)	Compensation calculated after applying the multiplier of 11	(₹2250X12X11) = ₹297000

(viii)	Compensation towards transportation and funeral expenses	₹5000
(ix)	Compensation towards medical expenses	₹75000
Total		**₹377000**

4. Learned counsel for the appellant has argued that the deceased was in the age group of 50 to 55 years. He was an agriculturist and was earning ₹10,000/- per month but the Tribunal has assessed his income as ₹4500/- per month, which is on lower side. The deceased had left behind two sons and three daughters but the Tribunal has made ½ deduction from income of the deceased towards his personal expenses, while as per observations of Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009,*** it should be 1/4th. Claimants are also entitled to 10% addition in income of the deceased towards loss of future prospects and compensation under the conventional heads.

5. Learned counsel for respondent no. 3 has not disputed the law as laid down by Apex Court in case of ***Pranay Sethi (supra)*** relating to grant of future prospects, compensation under the conventional heads and applicability of multiplier. However, he has argued that in the absence of any evidence with regard to income of the deceased, the Tribunal has rightly assessed his income as ₹4500/- per month.

6. In the absence of any evidence, the Tribunal has assessed income of the deceased as ₹4500/- per month being wages of unskilled worker. Claimant has alleged that the deceased was an agriculturist and was earning ₹10,000/- per month. In order to corroborate testimony of claimant (PW-2 Surender), copy of *jamabandi* for the year 2004-2005 was placed on file, which shows that the deceased was having land in *Tehsil* Jind.

The Tribunal has assessed income of the deceased as ₹4500/- per month. Being an agriculturist, his salary could be assessed as a skilled worker. In the year 2009, the salary of a skilled worker was ₹4504/-, as such, the Tribunal has rightly taken income of the deceased as ₹4500/- per month. As per law settled by Apex Court in case of ***Pranay Sethi (supra)***, claimant is entitled to 10% addition in income of the deceased towards loss of future prospects. Keeping in view money value prevailing at that point of time, he is also awarded lump sum compensation of ₹20,000/- under the conventional heads. Though, the deceased was left behind claimant and respondents no. 4 to 7 as his legal heirs but PW-2 Surrender (claimant-appellant) in his statement has stated that none of the respondent was dependant on income of the deceased except him, as such, the Tribunal has rightly deducted ½ of the income of deceased towards his personal expenses.

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

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Rameshwar
(ii)	Age of the deceased	50 to 55 years
(iii)	Income of the deceased as assessed by the Tribunal	₹4500 per month
(iv)	10% of (iii) above added towards future prospects	(₹4500+ ₹450)= ₹4950 per month
(v)	1/2nd of (iv) above deducted towards personal expenses	(₹4950- ₹2475) = ₹2475 per month
(vi)	Compensation calculated after applying the multiplier of 11	(₹2475X12X11) = ₹326700
(vii)	Lump sum compensation under the conventional heads	₹20000
(viii)	Compensation towards medical expenses as awarded by the Tribunal	₹75000
	Total	**₹421700**

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-appellant for death of **Rameshwar** is enhanced from **₹3,77,000/-** to **₹4,21,700/-**. 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. 3 being insurer of the offending vehicle will deposit the share of claimant-appellant in his bank account or pay the same through demand draft.

March 13, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

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