IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 1932 of 2012 (O&M)
Date of Decision : 14.03.2019

Santosh and others .....Appellants

Versus

Raju Prasad and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: None for the appellants.

Mr. Vinod Gupta, Advocate
for respondent no. 3.

<u>Surinder Gupta, J.</u>

Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') vide award dated 02.02.2012 allowed compensation of ₹5,19,000/- for death of Ajmer Singh (later referred to as ‘the deceased’) in a motor vehicle accident with truck bearing registration No.HR-55G-6531 (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	Ajmer Singh
(ii)	Age of the deceased	45 years
(iii)	Date of accident	01.01.2011
(iv)	Marital status	Married
(v)	Income of the deceased	₹4500 per month
(vi)	1/3rd of (v) above deducted towards personal expenses	(₹4500- ₹1500) = ₹3000 per month
(vii)	Compensation calculated after applying the multiplier of 14	(₹3000X12X14) = ₹504000

(viii)	Compensation towards loss of consortium	₹5000
(ix)	Compensation towards transportation and funeral expenses.	₹10000
Total		**₹519000**

4. Claimants-appellants have sought enhancement of income of the deceased on the ground that he was an agriculturist and also carrying on side business of dairy farming. The Tribunal has wrongly made deduction of 1/3rd from the assessed income of the deceased towards his personal expenses instead of 1/4th as per law settled by Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***. Claimants have also claimed addition in income of the deceased towards loss of future prospects and compensation under the conventional heads as per law now settled by Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

5. Learned counsel for respondent no. 3-Insurance Company has argued that the accident had taken place in the year 2011. The Tribunal has rightly assessed income of the deceased as per minimum wages prevailing at that point of time. He has, however, not disputed the grant of compensation under the conventional heads and addition in income of the deceased towards loss of future prospects as per law settled in case of ***Pranay Sethi (supra)***.

6. The Tribunal while assessing income of the deceased has observed that claimants have not been able to prove that the deceased was driver, but income of the deceased was assessed as a driver @ ₹4500/- per month. The driver falls in the category of skilled worker. The minimum wages for the skilled worker as prescribed in the year 2011 were ₹5022.98 ps. per month as per letter of Labour Commissioner, Haryana dated

24.02.2011. Keeping in view this fact, income of the deceased can be safely assessed as ₹5200/- per month. As per law settled by Apex Court in case of ***Pranay Sethi (supra)***, claimants are entitled to 25% addition in income of the deceased towards loss of future prospects. The deceased has left behind four dependants, as such, the deduction from his salary towards his personal expenses is to be made as 1/4th. Claimants are also entitled to compensation of ₹70,000/- under the conventional heads.

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	Ajmer Singh
(ii)	Age of the deceased	45 years
(iii)	Income of the deceased	₹5200 per month
(iv)	25% of (iii) above added towards future prospects	(₹5200+ ₹1300)= ₹6500 per month
(v)	1/4th of (iv) above deducted towards personal expenses	(₹6500- ₹1625) = ₹4875 per month
(vi)	Compensation calculated after applying the multiplier of 14	(₹4875X12X14) = ₹819000
(vii)	Compensation towards loss of consortium	₹40000
(viii)	Compensation towards loss of estate	₹15000
(ix)	Compensation towards funeral expenses	₹15000
Total		**₹889000**

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 claimants for death of **Ajmer Singh** is enhanced from **₹5,19,000/-** to **₹8,89,000/-**. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realization. The enhanced amount of compensation shall be shared by claimants as follows:-

Claimant-appellant no. 1-wife	40%
Claimants-appellants no. 2 to 4	20% each

9. Respondent No. 3 being insurer of the offending vehicle will deposit the share of claimants in their bank accounts or pay the same through demand draft.

10. 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).

Copy of award be conveyed to claimants.

March 14, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

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