

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 6340 of 2011 (O&M)

Date of Decision : 13.03.2019

Urmila and another

.....Appellants

Versus

Bhim Parkash and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vaibhav Parashar, Advocate
for the appellants.

Mr. Sanjeev Goyal, Advocate
for respondent no. 3.

Surinder Gupta, J.

Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 03.02.2011 allowed compensation of ₹5,28,400/- for death of Sunil Kumar (later referred to as 'the deceased') in a motor vehicle accident with dumper bearing registration No.HR-38J-6099 (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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Sunil Kumar
(ii)	Age of the deceased	22 years
(iii)	Date of accident	01.02.2010
(iv)	Marital status	Unmarried
(v)	Income of the deceased	₹3600 per month
(vi)	1/3 rd of (v) above deducted towards personal expenses	(₹3600- ₹1200) = ₹2400 per month

(vii)	Compensation calculated after applying the multiplier of 18	(₹2400X12X18) = ₹518400
(viii)	Compensation towards funeral expenses.	₹10000
Total		₹528400

4. Learned counsel for the appellants has argued that the deceased was 22 years of age and was employed as labour contractor. The Tribunal has taken as salary as ₹3600/- per month, which is less than the minimum wages prescribed for unskilled worker in the year 2010. He has further argued that claimants are also entitled to 40% addition in income of the deceased towards loss of future prospects as per law settled by Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009** 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 and compensation under the conventional heads. 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 ₹3600/- per month.

6. In the State of Haryana, the minimum wages for an unskilled worker as on 01.01.2010 were ₹4214/- per month, as such, the minimum wages of the deceased are assessed as ₹4250/- per month. As per law settled in case of **Pranay Sethi (supra)**, claimants are also entitled to 40% addition in income of the deceased towards loss of future prospects and are awarded lump sum compensation of ₹20,000/- under the conventional heads. As deceased was unmarried ½ of his income is to be deducted towards his personal expenses.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Name of the deceased	Sunil Kumar
(ii)	Age of the deceased	22 years
(iii)	Income of the deceased	₹4250 per month
(iv)	40% of (iii) above added towards future prospects	(₹4250+ ₹1700)= ₹5950 per month
(v)	1/2 nd of (iv) above deducted towards personal expenses	(₹5950- ₹2975) = ₹2975 per month
(vi)	Compensation calculated after applying the multiplier of 18	(₹2975X12X18) = ₹642600
(vii)	Lump sum compensation under the conventional heads	₹20000
<i>Total</i>		₹662600

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 for death of **Sunil Kumar** is enhanced from **₹5,28,400/-** to **₹6,62,600/-**. 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 claimants in their bank accounts or pay the same through demand draft. The enhanced amount of compensation shall be shared by claimants in equal share.

9. In the event of demise of any of the claimant(s) before or after disposal of this appeal, compensation of her share shall be paid to surviving claimant.

March 13, 2019
jk

(**SURINDER GUPTA**)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No