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

FAO No.2381 of 2012 (O&M)
Date of Decision: March 18, 2019.

Smt. Manjit Kaur and others
..........APPELLANT(s).

VERSUS

Harjit Singh and others
........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. M.K Bhatnagar, Advocate for
Mr. Inderjit Sharma, Advcocate
for the appellant (s).

Mr. Sandeep Suri, Advocate
for respondent No.3-insurance company.

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<u>SURINDER GUPTA, J.</u>

Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the tribunal') vide award dated 04.05.2011 allowed compensation of ₹4,36,000/- for death of Nachhattar Singh(later referred to as the deceased), husband of appellant No.1, father of appellants No.2 to 4, in a motor vehicle accident with Maruti Car bearing registration No.PB-11X-1371.

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	Nachhattar Singh
(ii)	Date of accident	12.12.2008
(iii)	Age of the deceased	47 years

(iv)	Income of the deceased	₹4000 p.m. i.e. ₹48000/- per annum
(v)	Deduction of 1/3rd towards personal expenses	₹48000-16000=₹32000 p.a.
(vi)	Multiplier applied 13	₹32000X13 = ₹4,16,000/-
(vii)	Loss of consortium	₹10000
(viii)	Loss of estate	₹5000
(ox)	Expenses for last rites	₹5000
	Total	₹4,36,000/-

Learned counsel for the appellants has confined his submission only for 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 2017(4) R.C.R. (Civil) 1009***. He has argued that the deceased was 47 years of age, as such, appellants are entitled to addition of 25% in the income of the deceased towards loss of future prospects and are also entitled to compensation under the conventional heads as the tribunal has allowed very nominal amount of ₹20,000/- on this score. The deceased had left behind four dependants including his son Jasbir Singh, aged 20 years. The tribunal took claimant-appellant No.2 Jasbir Singh as major and applied 1/3rd deduction towards personal expenses of the deceased. Even if, Jasbir Singh was 20 years of age, he was still dependant on his father and deduction towards personal expenses of the deceased should be taken as 1/4th as per the law settled by Hon'ble Apex Court in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (2009)6 SCC 121***.

Learned counsel for respondent-insurance company has argued that the tribunal has rightly excluded Jasbir Singh from the list of dependants as he was major and made deduction of 1/3rd of the income of the deceased towards his personal expenses. Under the conventional heads, a sum of ₹20,000/- was allowed, which is adequate keeping in view the money value prevailing in the year of accident i.e. 2008. He has, however, not disputed the legal proposition regarding addition of 25% in the income of the deceased towards loss of future prospects as per law laid down in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***.

The deceased was 47 years of age. As per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)*** appellants-claimants are entitled to 25% addition in the income of the deceased towards loss of future prospects. The tribunal declined to accept Jasbir Singh, aged 20 years as dependant on the income of the deceased on the ground that he was major. A child, who has attained the age of 20 years, cannot be taken out of the category of dependant as it is the age, where he has yet to settle in life and may be a student and dependant on his parents. I do not agree with the observation of learned tribunal that Jasbir Singh appellant-claimant No.2 being major cannot be considered dependant on the earning of the deceased. As the deceased had left behind four dependants, 1/4th of his income is to be deducted towards his personal expenses as per the law settled in case of ***Sarla Verma and others Vs. Delhi Transport Corporation and Anr. (supra).*** The accident took place in the year 2008 and keeping in view the money value prevailing at the relevant point of time, a lump sum compensation of ₹50,000/- is awarded under the conventional heads.

As a sequel of my above discussion, the compensation to which the claimants are entitled, is reassessed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹4000 per month
(ii)	25% of above (i) to be added as loss of future prospects	(₹4000+₹1000)= ₹5000 per month
(iii)	Deduction of 1/4th towards personal expenses of the deceased	(₹5000-₹1250)= ₹3750 per month
(iv)	Compensation after multiplier of 13 is applied	(₹3750X12X13)= ₹585000
(v)	Compensation under the conventional heads	₹50000
Total		₹6,35,000/-

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 ₹4,36,000/- to ₹6,35,000/- for death of Nachhattar 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 : 55%

(ii) Appellants-claimants No.2 to 4 : 15% each

Respondent-insurance company will deposit the shares of appellants-claimants in their bank accounts or pay the same through demand drafts. 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.

(SURINDER GUPTA)
JUDGE

March 18, 2019.
Sachin M.

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

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