IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 4333 of 2012 (O&M)
Date of Decision : 19.03.2019

Rachu Walia and others .....Appellants

Versus

Mohan Lal and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Tarun Singla, Advocate
for Mr. Rajinder Kumar Singla, Advocate
for the appellants.

Mr. Akash Sridhar, Advocate
for respondent s no. 1 and 2.

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

Surinder Gupta, J.

Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 23.08.2008 allowed compensation of ₹8,96,000/- for death of Davinder Singh Walia (later referred to as 'the deceased') in a motor vehicle accident with bus bearing registration No.PB-01-4640 (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)	Name of the deceased	Davinder Singh Walia
(ii)	Age of the deceased	27 years
(iii)	Date of accident	13.03.2007
(iv)	Marital status	Married
(v)	Income of the deceased	₹8000 per month

(vi)	Annual dependency	(₹8000X12) = ₹96000 per annual
(vii)	1/3rd of (vi) above deducted towards personal expenses	(₹96000- ₹32000) = ₹64000 per annum
(vii)	Compensation calculated after applying the multiplier of 14	(₹64000X14) = ₹896000
(viii)	Compensation towards funeral expenses	₹2000
Total		**₹898000**

4. Learned counsel for the appellants has argued that the deceased was employed as Security Supervisor with M/s A Plus Security Services and Training Institute Pvt. Ltd. His income vide salary certificate (Ex. P-1) was duly proved on record but the Tribunal has discarded his salary certificate while assessing his income as ₹8000/- per month. He has sought 40% addition in income of the deceased towards loss of future prospects; application of multiplier of 17 as per age of the deceased; and grant of compensation under the conventional heads as per law settled by Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009***. He has further argued that Amarjit Kaur, mother of the deceased, has since expired and her share of compensation may also be awarded to remaining dependants of the deceased.

5. Learned counsel for respondents have argued that the Tribunal has rightly ignored the salary certificate (Ex. P-1) as the employer has not deducted the income tax at source and the deceased was not filing his income tax return. In case he was drawing the salary of ₹15975/- per month he was required to pay income tax. They have, however, 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.

6. Claimants examined Sachin Sharma, Deputy Manager, A Plus Security Services & Training Institute (P) Ltd. as PW-4, who has stated that the deceased was working with their company as Security Executive/Security Incharge and has proved his salary certificate (Ex. P-1) as correct. He proved the identity card of the deceased as Ex. P-2 and had brought attendance register maintained by the company wherein attendance of the deceased was marked. Salary register was also produced which contained name of Davinder Singh as employee of the company. The Tribunal discarded the salary certificate (Ex. P-1) on the ground that the deceased was not income tax payee. It was held as proved that he was working as security officer and his income was assessed as ₹8000/- per month.

7. As per income tax slab for the financial year 2006-2007, there was no tax upto the income of ₹1 lakh and for the income between ₹1,00,000/- to ₹1,50,000/- tax slab was 10% and for the income between ₹1,50,000/- to ₹2,50,000/- it was 20%. By taking monthly income of the deceased as ₹15000/-, his annual income comes to ₹1,80,000/-. Certainly, the deceased could avail various exemptions including the exemption on his GPF etc. The salary certificate (Ex. P-1) shows gross salary of the deceased. The witness has brought register of payment of salary and it was not enquired from him as to whether any tax was deducted at source while making the payment of salary to the deceased. Counsel for Insurance Company had avoided to put any question to PW-4 on this score. Even if it be believed that no tax was deducted at source from income of the deceased but the Tribunal could look into the tax liability of the deceased, which comes to around ₹11000/- per annum and deduct the same from annual

income of the deceased. There was no reason to discard the oral testimony of these witnesses corroborated by documentary evidence, which prove that the deceased was employed as security executive and was getting salary as shown in his salary certificate (Ex. P-1). It was, however, not disputed that personal allowances like washing allowance, conveyance allowance, mobile reimbursement and food allowance are not to be taken as part of the salary of deceased. After deducting these amounts, salary of the deceased works out to be ₹14,825/-.

8. As per law settled by Apex Court in case of ***Pranay Sethi (supra)***, claimants are entitled to 40% addition in income of the deceased towards loss of future prospects. The multiplier applicable in this case is 17 and the deduction towards personal expenses of the deceased is to be made as 1/3rd. Claimants are also entitled to compensation of ₹70,000/- under the conventional heads.

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

(i)	Name of the deceased	Davinder Singh Walia
(ii)	Age of the deceased	27 years
(iii)	Income of the deceased	₹14825 per month
(iv)	Annual income of the deceased after deducting income tax	(₹14825X12)= ₹177900 - ₹11000 = ₹166900 per annum
(v)	40% of (iv) above added towards future prospects	(₹166900+ ₹66760)= ₹233660 per annum
(vi)	1/3rd of (v) above deducted towards personal expenses	(₹233660- ₹77887) = ₹155773 per annum
(vii)	Compensation calculated after applying the multiplier of 17	(₹155773X17) = ₹2648141
(viii)	Compensation towards loss of consortium	₹40000
(ix)	Compensation towards loss of estate	₹15000
(x)	Compensation towards funeral expenses	₹15000
	Total	**₹2718141 (rounded off to ₹2718150)**

10. 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 **Davinder Singh Walia** is enhanced from **₹8,98,000/-** to **₹27,18,150/-**. 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	60%
Claimant-appellant no. 2	30%
Claimant-appellant no. 4	10%

11. Respondent no. 3 being insurer of the offending vehicle will deposit the share of claimants-appellants in their bank accounts or pay the same through demand drafts.

12. The share of claimant no.2, who is minor, will be deposited in some nationalized bank as fixed deposit till the period he attains majority. It is, however, made clear that the bank may take the documents regarding age of minor as required at the time of deposit of the amount and he shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in his name after the date of his attaining majority. The above direction has been issued to save claimants from unnecessary harassment caused due to directions, the bank usually give to bring the order of Tribunal to get the payment even after attaining the age of majority. Claimant-appellant no. 1-Rachu Walia, being mother and natural guardian of minor claimant shall be entitled to get interest on the share of minor deposited with bank, on monthly, quarterly, half yearly or annual basis, as per her convenience to meet expenses of his up bringing.

13. 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).

March 19, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

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