IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 191 of 2013 (O&M)
Date of Decision : 19.03.2019

Raj Rani and others .....Appellants

Versus

Tek Chand and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: None for the appellants.

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

Surinder Gupta, J.

Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 01.08.2012 allowed compensation of ₹3,70,000/- for death of Tejvinder Singh @ Tejinder Singh (later referred to as ‘the deceased’) in a motor vehicle accident with truck bearing registration No.PB-11-AF-8365 (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	Tejvinder Singh @ Tejinder Singh
(ii)	Age of the deceased	30 years
(iii)	Date of accident	15.05.2011
(iv)	Marital status	Married
(v)	Income of the deceased	₹3000 per month
(vi)	$1/3^{rd}$ of (v) above deducted towards personal expenses	(₹3000- ₹1000) = ₹2000 per month
(vii)	Compensation calculated after applying the multiplier of 15	(₹2000X12X15) = ₹360000

(viii)	Compensation towards loss of consortium	₹5000
(ix)	Compensation towards transportation and funeral expenses.	₹5000
Total		**₹370000**

4. The appellants have mainly challenged the award passed by the Tribunal on the ground that income of the deceased has been assessed on a lower side. He was earning ₹15000/- per month from Auto Repairing Shop and ₹5000/- from dairy farming. The evidence produced in this regard was ignored by the Tribunal. The Tribunal has also not considered the medical bills amounting to ₹25037/- issued by Amar Hospital, Patiala, which shows the amount was spent on the treatment of the deceased. The deduction from income of the deceased towards his personal expenses has also been wrongly made as 1/3rd instead of 1/4th and the multiplier has been applied as 15 instead of 17.

5. Learned counsel for respondent no. 3 has not disputed the law as laid down by Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009*** 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 ₹3000/- per month.

6. 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 1/4th. Claimants are also entitled to compensation of ₹70,000/- under the conventional heads.

7. The only question, which calls for attention in this appeal, is regarding the quantum of income of deceased as assessed by the Tribunal.

8. The Tribunal assessed income of the deceased as ₹3000/- per month with the observation that claimants have not been able to prove his income as ₹20000/- per month from his business as mechanic and dairy farming. Claimants examined Sukhlal Singh as CW-2, who has stated that the deceased was working as auto mechanic and was also in dairy farming business. CW-3 Kashmir Singh has stated that he is running milk dairy under the name and style of Bawa Dairy at Devigarh and had been purchasing 7-8 liters of milk per day from the deceased. He produced copies of bill book showing sale of 230 liters of milk by deceased in January, 2011; 203 liters in February, 2011; 235 liters in March, 2011; 209 liters in April, 2011; and 135 liters in May, 2011. In the month of June, 2011, father of the deceased sold 149 liters of milk at his shop. Claimants examined Sukhwir Singh as CW-4, who has stated that the deceased was running auto repair shop adjoining his shop. He was also doing job of service/washing of scooters and motorcycles and was earning ₹20000/- per month from this vocation. However, he could not produce any documentary evidence regarding income of the deceased from his auto repair business.

9. From the testimony of aforesaid witnesses, it is proved that the deceased was running auto repair shop and was also in the business of selling milk. Though, no documentary evidence regarding his auto repair shop has come on record but in view of evidence discussed above, the status of deceased for the purpose of assessment of his income can be compared with a skilled worker. The minimum wages of a skilled worker as on 01.03.2011 were ₹4284/-. Keeping in view the fact that the deceased was

also in the business of sale of milk, his income can be safely assessed as ₹4500/- per month.

10. The deceased remained admitted in Amar Hospital, Patiala. The bills of Amar Hospital were produced on file but the Tribunal has not taken note of the same while awarding compensation to claimants. The appellants are also entitled to medical expenses amounting to ₹25,000/- borne by them for the treatment of the deceased.

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

(i)	Name of the deceased	Tejvinder Singh @ Tejinder Singh
(ii)	Age of the deceased	30 years
(iii)	Income of the deceased	₹4500 per month
(iv)	40% of (iii) above added towards future prospects	(₹4500+ ₹1800)= ₹6300 per month
(v)	1/4th of (iv) above deducted towards personal expenses	(₹6300- ₹1575) = ₹4725 per month
(vi)	Compensation calculated after applying the multiplier of 17	(₹4725X12X17) = ₹963900
(vii)	Compensation towards loss of consortium	₹40000
(viii)	Compensation towards loss of estate	₹15000
(ix)	Compensation towards funeral expenses	₹15000
(x)	Medical expenses proved on file	₹25000
	Total	**₹1058900**

12. 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 **Tejvinder Singh @ Tejinder Singh** is enhanced from **₹3,70,000/-** to **₹10,58,900/-**. 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 per award. 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.

13. The share of claimants no.2 and 3, who are minor, will be deposited in some nationalized bank as fixed deposit till the period they attain 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 they shall not be asked to bring fresh order from the Tribunal to get the payment of the amount deposited in their names after the date of their 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-Raj Rani, being mother and natural guardian of minor claimants 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 their up bringing.

14. 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).

15. As counsel for the appellants has not appeared, copy of award be conveyed to claimant-Raj Rani.

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

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