IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

FAO No.3375 of 2016 (O&M)
Date of Decision: February 22, 2019.

Sakinder Kaur and another

..........APPELLANT(s).

VERSUS

Karnail Singh and another

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Rajnikant Upadhyay, Advocate for
Ms. Riya Bansal, Advocate
for the appellant (s).

Mr. M.B. Jain, Advocate
for respondent No.2--insurance company.

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SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the tribunal') vide award dated 23.11.2015 allowed compensation of ₹5,19,200/- for death of Gurvir Singh, son of appellants, in a motor vehicle accident with Car bearing registration No.PB-10DU-6369.

As the only issue involved 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	Gurvir Singh
(ii)	Age of the deceased	17 years
(iii)	Income of the deceased	₹3900/- p.m.

(iv)	Deduction towards personal expenses1/3rd	₹3900-1300=₹2600 p.m. i.e. ₹31200 p.a.
(v)	Multiplier applied 16	₹31200X16 = ₹499200/-
(vi)	Funeral expenses and loss of estate	₹20000/-
Total		₹5,19,200/-

Learned counsel for the appellants has argued that deceased was a young boy, who was working as Carpenter and was earning more than ₹6,000/- per month. The tribunal has also taken note of the fact that male in the community of Carpenter start working with their elders in their young age in order to help them. The claimants while appearing as PW1 and PW2, have stated this fact. Despite evidence on record, the tribunal has assessed the income of the deceased as ₹3,900/- per month, which was less than the minimum wages as prescribed by the State of Punjab for unskilled worker. He has further argued that the petition was filed under Section 166 of Motor Vehicles Act while the tribunal considering it a petition under Section 163-A of Motor Vehicles Act applied the multiplier of 16. The tribunal has not made any addition in the income of the deceased towards loss of future prospects or awarded compensation under the conventional heads as per the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***.

Learned counsel for respondent No.2-insurance company has argued that as per the observations of the tribunal, the deceased was 17 years of age. The tribunal has taken his income as ₹3,900/- per month as he was only helping his father. There was no evidence with regard to his annual income. Though the minimum wages for unskilled worker prescribed by the State as on 01.09.2013 were ₹6,247.75p but the claimants themselves have claimed that deceased was earning around ₹6000/- per month. He, however, did not dispute observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)*** to this case with regard to application of multiplier, addition of 40% towards loss of future prospects and grant of compensation under the conventional heads. He has further argued that the deceased was unmarried, as such, 1/2 of his income is to be deducted towards his personal expenses instead of 1/3rd .

Learned tribunal has observed that the deceased was claimed to be working as Carpenter and in Carpenter community, boys at young age start helping their elders. Keeping in view the fact that deceased was helping in the business of his father, the salary of the deceased could be fairly taken as ₹6,000/- per month as claimed by the appellants-claimants as the minimum wages prescribed for the unskilled worker as on 01.09.2013 was more than ₹6,000/-. As per the law settled by Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***, claimants are entitled to 40% addition in the income of the deceased towards loss of future prospects; multiplier attracted in this case is 18 and 1/2 of the income of the deceased is to be deducted towards his personal expenses.

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	₹6000 per month
(ii)	40% of above (i) to be added as loss of future prospects	(₹6000+₹2400)= ₹8400 per month

Sl.No.	*Heads*	*Calculation*
(iii)	Deduction of 1/2 towards personal expenses of the deceased	(₹8400-₹4200)= ₹4200 per month
(iv)	Compensation after multiplier of 18 is applied	(₹4200X12X18)= ₹907200
(v)	Loss of estate	₹15000
(vi)	Funeral expenses	₹15000
Total		₹9,37,200/-

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 ₹5,19,200/- to ₹9,37,200/- for death of Gurvir 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-mother : 75%

(ii) Appellants-claimants No.2-father : 25%

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 given to another claimant.

(SURINDER GUPTA)
JUDGE

February 22, 2019.
Sachin M.

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

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