

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 9061 of 2014 (O&M)
Date of Decision : 06.03.2019

Harjinder Kaur and another

.....Appellants

Versus

Daler Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Gaurav Sharma, Advocate
for the appellants.

Mr. B.S. Khehar, Advocate
Legal Aid Counsel for respondent no. 1.

Surinder Gupta, J.

Motor Accident Claims Tribunal, Barnala (hereinafter referred to as 'the Tribunal') vide award dated 09.07.2014 allowed compensation of ₹8,02,000/- for death of Buta Singh (later referred to as 'the deceased') in a motor vehicle accident with car bearing registration No.HR-16E-3496 (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	Buta Singh
(ii)	Age of the deceased	34 years
(iii)	Date of accident	11.11.2011
(iv)	Marital status	Married
(v)	Income of the deceased	₹5500 per month
(vi)	1/4 th of (v) above deducted towards personal expenses	(₹5500- ₹1375) = ₹4125 per month

(vii)	Compensation calculated after applying the multiplier of 16	(₹4125X12X16) = ₹792000
(viii)	Compensation towards loss of consortium	₹5000
(ix)	Compensation towards funeral expenses.	₹5000
Total		₹802000

4. Learned counsel for appellants has argued that the salary certificate of the deceased was produced on record, which shows his salary in the month of October, 2011 i.e. a month before the accident, as ₹6137/- per month while the Tribunal has taken income of the deceased as ₹5500/- per month after deducting recoveries from his salary, which were towards Provident Fund and Employees State Insurance and Welfare Fund, and are not deductible. Relying on observations of Hon'ble Apex Court in case of **National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, he has sought 40% addition in income of the deceased towards loss of future prospects and compensation of ₹70,000/- under the conventional heads.

5. Learned counsel for respondent no. 1 has argued that the Tribunal has rightly deducted recoveries from the salary of the deceased while assessing his income. He has, however, not disputed the grant of compensation as per law settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)***.

6. Claimants have examined PW-3 Mahesh Kumar, Cooperation Officer, Trident Factory, Corporate Unit, Dhaula, who has placed on file payment slip of the deceased, which shows his gross salary as ₹6137/-, out of which ₹622/- were being deducted towards Provident Fund, Employees State Insurance and Welfare Fund. This salary slip shows that CTC package

of the deceased was ₹7500/- per month. While computing salary of the

deceased, deduction towards Provident Fund, Employees State Insurance and Welfare Fund could not be made as these are part of his salary and in long term the employee concerned gets benefit of the same. The CTC package of an employee also does not reflect the real carry home salary of the deceased, as such, I am of the view that gross salary of the deceased is to be taken as his actual salary, which was ₹6137/- per month. As per law settled in case of *Pranay Sethi (supra)*, claimants are entitled to 40% addition in income of the deceased towards loss of future prospects and ₹70,000/- under the conventional heads.

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	Buta Singh
(ii)	Age of the deceased	34 years
(iii)	Income of the deceased	₹6137 per month
(iv)	40% of (iii) above added towards future prospects	(₹6137+ ₹2455)= ₹8592 per month
(v)	1/4 th of (iv) above deducted towards personal expenses	(₹8592- ₹2148) = ₹6444 per month
(vi)	Compensation calculated after applying the multiplier of 16	(₹6444X12X16) = ₹1237248
(vii)	Compensation towards loss of consortium	₹40000
(viii)	Compensation towards loss of estate	₹15000
(ix)	Compensation towards funeral expenses	₹15000
<i>Total</i>		₹1307248 (rounded off to ₹1307250)

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 **Buta Singh** is enhanced from ₹8,02,000/- to ₹13,07,250/-. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till

actual realization. The amount of enhanced compensation shall be shared by claimants as follows:-

Claimant no. 1-wife	40%
Claimants no. 2 to 5 (children)	10% each
Claimants no. 6 and 7 (parents)	10% each

9. Respondents No. 1 to 3 are jointly and severally liable to pay the entire amount of compensation and will deposit the share of claimants in their bank accounts or pay the same through demand draft.
10. The share of claimants-appellants No. 3 to 5, 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 his 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-Harjinder Kaur, 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 upbringing.
11. 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 06, 2019
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No