IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 3510 of 2010 (O&M)
Date of Decision : 10.05.2019

Gurpreet Kaur and others .....Appellants

Versus

Mansa Ram and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Lalit Sharma, Advocate
for Mr. Sunil Kumar Sharma, Advocate
for the appellants.

Mr. R.C.Gupta, Advocate
for respondent no. 3.

Surinder Gupta, J. (Oral)

Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 24.12.2009 allowed compensation of ₹6,10,000/- for death of Harvinder Singh (later referred to as 'the deceased') in a motor vehicle accident with truck bearing registration No.HR-03A-0894 (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:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Harvinder Singh
(ii)	Age of the deceased	40 years
(iii)	Date of accident	28.11.2006
(iv)	Marital status	Married

(v)	Annual income of the deceased	₹60000 per annum
(vi)	1/3rd of (vi) above deducted towards personal expenses	(₹60000- ₹20000) = ₹40000 per annum
(vii)	Compensation calculated after applying the multiplier of 15	(₹40000X15) = ₹600000
(viii)	Compensation towards loss of consortium	₹5000
(ix)	Compensation towards funeral expenses.	₹5000
Total		**₹610000**

4. Learned counsel for appellant submits that as per income tax return of deceased for the year 2005-06, filed prior to his death, his income was ₹96,000/- per annum but the Tribunal has assessed his income as ₹5000/- per month with the observations that income from business remained intact. The Tribunal should have taken the income of the deceased as shown in the income tax return. The claimants are also entitled to 25% addition in the income of the deceased towards loss of future prospects and compensation under the conventional heads as per law settled by the Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***.

5. Learned counsel for respondent no.3 submits that though the income tax return placed on file as Ex.P1 shows income of the deceased as ₹96,000/- per annum but the fact remains that business was intact and the deceased was also spending some part of his income on business expenses, as such, the Tribunal has rightly assessed the income of the deceased as ₹5000/- per month. However, he has not contested the grant of addition in income of the deceased towards loss of future prospectus and compensation under the conventional heads as per law settled by the Apex Court in the case of ***Pranay Sethi (supra)***.

6. Income tax return placed on file by claimants shows income of the deceased as ₹96,000/- per annum. After death of Harvinder Singh,

claimants have lost this income and the argument that business remained intact, as such, loss cannot be taken to the tune of income mentioned in the income tax return, is not tenable. This submission of learned counsel for respondent no. 3 that deceased was also spending some part of his income towards his business expenses have no merit as in the income tax return taxable income is shown after meeting with all the business expenses. Even in the case of death of a Government employee pension paid to dependents of the deceased is not to be deducted from his income which he was deriving at the time of his death. On the same reasoning this argument is also without merit that after the death of Harvinder Singh, his business remained intact and the family was having income from that business. The Tribunal has committed grave error while ignoring the income of the deceased as mentioned in the income tax return and taking it as ₹5000/- per month. I find no reason to agree with observations of the Tribunal on this score and take the income of the deceased as ₹96,000/- per annum. The claimants are also entitled to 25% addition in the income towards future prospects. The accident had taken place in the year 2006 and taking into consideration the prevalent value of money at that point of time, the claimants are also awarded compensation of ₹50000/- under the conventional heads.

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

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Harvinder Singh
(ii)	Age of the deceased	40 years
(iii)	Annual income of the deceased	₹96000 per annum
(iv)	25% of (iii) above added towards future prospects	(₹96000+ ₹24000)= ₹120000 per annum

(v)	1/3rd of (iv) above deducted towards personal expenses	(₹120000- ₹40000) = ₹80000 per annum
(vi)	Compensation calculated after applying the multiplier of 15	(₹80000X15) = ₹1200000
(vii)	Lump sum compensation under the conventional heads	₹50000
Total		**₹1230000**

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 claimants for death of **Harvinder Singh** is enhanced from **₹6,10,000/-** to **₹12,50,000/-**. The enhanced amount of compensation will carry interest @ 7.5% per annum from the date of filing of the appeal till actual realization. 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 draft. The enhanced amount of compensation shall be shared by claimants as follows:-

Claimant-appellant no. 1-wife	70%
Claimant-appellant no. 2-son	15%
Claimant-appellant no. 3-daughter	15%

9. 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).

May 10, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

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