

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No. 9537 of 2014 (O&M)
Date of Decision : 26.03.2019

Phool Mala and others

....Appellants

Versus

Nasib Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Saurabh Kapoor, Advocate
for Mr. Ashit Malik, Advocate
for the appellants.

Mr. M.B. Jain, Advocate
for respondent no. 3.

Surinder Gupta, J.

This is appeal by claimants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Karnal (later referred to as 'the Tribunal') for death of Shyam Babu (later referred to as 'the deceased'), in a motor vehicle accident on 19.04.2013 with car bearing registration no. HR-40B-3462 (later referred to as 'the offending vehicle').

2. As the only relief sought in this appeal is for enhancement of compensation, detailed facts of the case are being skipped for the sake of brevity.

3. Learned counsel for the appellant has confined his submission only for grant of 25% addition in income of the deceased, who was aged 48 years at the time of his death and was carrying on his private business, 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 the deceased had left behind four dependants, as such, deduction towards his personal expenses could be made as 1/4th instead of 1/3rd.

4. Learned counsel for respondent no. 3 has not disputed the law as settled by Apex Court in case of ***Pranay Sethi (supra)*** but has challenged the grant of compensation as ₹2,25,000/- under the conventional heads and has

argued that as per law settled in above referred case, it be confined to ₹70,000/-. He has, however, argued that the Tribunal has rightly made deduction of 1/3rd from income of the deceased towards his personal expenses as his one son, namely, Tarun was married and living separate and another son, namely, Goldi was in service.

5. Deceased-Shyam Babu was 48 years of age and as per law settled by Apex Court in case of ***Pranay Sethi (supra)***, claimants are entitled to 25% addition in income of the deceased towards loss of future prospects. They are also entitled to compensation of ₹70,000/- under the conventional heads and compensation of ₹2,25,000/- as allowed by the Tribunal under this head is to be reduced accordingly. The deceased left behind four dependants and even if his one son had started living separately and another had joined the service, number of dependants remains the same and as per law settled by Apex Court in case of ***Sarla Verma and ors. vs. Delhi Transport Corporation and another, (2009) 6 SCC 121***, deduction of 1/4th from income of the deceased is to be made towards his personal expenses.

6. In view of above, the compensation, to which claimants are entitled, is computed as follows:-

(i)	Monthly income of the deceased as assessed by the Tribunal	₹8650 per month
(ii)	25% of (i) above added towards future prospects	(₹8650+ ₹2162)= ₹10812 per month
(iii)	1/4 th of (ii) above deducted towards personal expenses	(₹10812- ₹2703) = ₹8109 per month
(iv)	Compensation calculated after applying the multiplier of 13	(₹8109X12X13) = ₹1265004
(v)	Compensation towards loss of consortium	₹40000
(vi)	Compensation towards loss of estate	₹15000
(vii)	Compensation towards funeral expenses	₹15000
Total		₹1335004 (rounded off to ₹1335000)

7. As a sequel of my discussion above, the instant appeal has merit and the same is accepted. Award of the Tribunal is modified and the compensation allowed to claimants for death of **Shyam Babu** is enhanced from **₹11,24,000/-** to **₹13,35,000/-**. 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 instant appeal till actual realization. Respondent no. 3 being insurer of the offending vehicle will deposit the share of claimants in their bank accounts or pay the same through demand drafts. Claimants will share the enhanced amount of compensation as follows:-

Claimant-appellant no. 1	70%
Claimants-appellants no. 2 to 4	10% each

8. 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 26, 2019
jk

(SURINDER GUPTA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>