IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

1. FAO No. 15801 of 2018 (O&M)
Date of Decision : 26.02.2019

Sarabjit Kaur and others .....Appellants

Versus

Bhupinder Singh and another .....Respondents

2. FAO No. 195 of 2019 (O&M)

ICICI Lombard General Insurance Co. Ltd. .....Appellant

Versus

Sarabjit Kaur and others .....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ruhani Chadha, Advocate
for appellants in FAO-15801-2018 and
for respondents no. 1 to 3 in FAO-195-2019.

Mr. Sachin Ohri, Advocate
for the appellant in FAO-195-2019 and
for respondent no. 2 in FAO-15801-2018.

Surinder Gupta, J.

Motor Accident Claims Tribunal, Gurdaspur (later referred to as ‘the Tribunal’), vide award dated 04.09.2018 awarded compensation of ₹71,58,928/- to claimants for the death of Kuldeep Singh, Assistant Sub Inspector of police (later referred to as ‘the deceased’) in a motor vehicle accident on 05.12.2017 with car bearing registration no. PB-08-BY-4035 (later referred to as ‘the offending vehicle’). While insurer of the offending vehicle i.e. ICICI Lombard General Insurance Company Ltd. has filed appeal (FAO-195-2019), challenging the quantum of compensation as awarded by the Tribunal, claimants have filed appeal (FAO-15801-2018) seeking enhancement of the same.

2. The Tribunal computed the amount of compensation awarded to claimants, as follows:-

(i)	Name of the deceased	Kuldeep Singh
(ii)	Monthly income of the deceased	₹60846 per month
(iii)	30% of (ii) above added towards loss of future prospects	(₹60846+18254)= ₹79100 per month
(iv)	Carry home salary after deduction of 20% of (iii) above towards TDS	(₹79100- ₹15820) = ₹63280 per month
(v)	30% of (iv) above deducted towards personal expenses of the deceased	(₹63280-18984) = ₹44296 (wrongly mentioned as ₹44196)
(vi)	Compensation calculated after applying the multiplier of 14	(₹44196X12X14) = ₹7424928 (wrongly mentioned as ₹7088928)
(vii)	Compensation for loss of consortium	₹40000
(viii)	Compensation for funeral expenses	₹15000
(ix)	Compensation for loss of estate	₹15000
Total		**₹7158928**

3. At the very outset, learned counsel for claimants-appellants has conceded that the Tribunal has taken age of the deceased as 42 years but he was 50 years, 04 months and 10 days old on the date of accident. Both the counsel for appellants in both the appeals are *ad idem* that compensation be allowed as per law settled by Hon'ble Apex Court in case of ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

4. As the only issue involved in these appeals is quantum of compensation, detailed facts of the case are being skipped for the sake of brevity.

5. First question, which arises for consideration, is applicability of

multiplier. As per law settled by Hon'ble Apex Court in case of ***Sarla Verma and ors.*** ***vs.*** ***Delhi Transport Corporation and another, (2009) 6 SCC 121***, multiplier for the age group of 46 to 50 is 13 and for the age group of 51 to 55 is 11. While learned counsel for the Insurance Company has insisted on applicability of multiplier of 11 for assessment of amount of compensation, learned counsel for claimants has drawn my attention to observations of Hon'ble Apex Court in case of ***Shashikala and others vs. Gangalakshmamma and another***, ***2015 (9) SCC 150***, wherein applicability of multiplier of 14 while computing amount of compensation for the deceased in a motor vehicle accident, who was 45 years 05 months and 28 days old, was held as justified. Observations of Hon'ble Apex Court in above referred case are reproduced as follows:-

> *"17. Insofar as appropriate multiplier, the date of birth of the deceased as per driving licence was 16.6.1961. On the date of accident i.e. 14.12.2006, the deceased was aged 45 years, 5 months and 28 days and the tribunal has taken the age as 46 years. Since the deceased has completed only 45 years, the High Court has rightly taken the age of the deceased as 45 years and adopted multiplier 14 which is the appropriate multiplier and the same is maintained. Total loss of dependency is calculated at ₹16,82,310/- (₹1,20,165/- x 14)."*

6. As the deceased in this case was 50 years 04 months and 10 days old, the multiplier of 13 can be appropriately adopted. The Tribunal has awarded 30% addition in income of the deceased towards loss of future prospects, which as per law settled by Hon'ble Apex Court in case of ***Pranay Sethi (supra)*** is to be reduced to 15% in view of observations in that case that "there should be addition of 15% if the deceased is between the age of 50 to 60 years".

7. Learned counsel for claimants has argued that gross salary of the deceased was ₹72571/- per month but the Tribunal has taken the same as ₹60846/- per month after ignoring deductions of ₹11725/-, which were towards GPF, GIS, income tax and WSF. Contribution of GPF, GIS and WSF is part of the salary and could not be ignored. So far as income tax is concerned, as per calculation by learned counsel for claimants around ₹51,000/- per annum could be deducted from salary of deceased on this score. I have seen the chart prepared by learned counsel for claimants and find that income tax payable by deceased works out around ₹55,000/- per annum i.e. ₹4600/- per month. The Mobile Allowance and Kilometer Allowance of ₹380/- are also to be deducted from gross salary of the deceased. After deducting amount of ₹4980/- gross salary of the deceased remains ₹67591/- rounded off to ₹67590/- per month. The Tribunal has wrongly ignored the contribution of the deceased towards his GPF, GIS and WSF, which is to be considered as part of the salary of the deceased.

8. Keeping in view above facts, compensation to which claimants are entitled is reassessed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Monthly income of the deceased	₹67590
(ii)	15% of (i) above added towards future prospects	(₹67590+ ₹10138)= ₹77728 per month
(iii)	1/3rd of (ii) above deducted towards personal expenses	(₹77728- ₹25909) = ₹51819 per month
(iv)	Compensation calculated after applying the multiplier of 13	(₹51819X12X13) = ₹8083764
(v)	Compensation for loss of consortium	₹40000
(vi)	Compensation for loss of estate	₹15000
(vii)	Compensation for funeral expenses	₹15000
Total		**₹8153764 (rounded off to ₹8153760)**

9. As a sequel of my discussion above, the appeal **(FAO No. 15801 of 2018)** filed by claimants has merit and the same is accepted, while the appeal **(FAO No. 195 of 2019)** filed by the Insurance Company is dismissed. Award of the Tribunal is modified and the compensation allowed to claimants for death of **Kuldeep Singh** is enhanced from **₹71,58,928/-** to **₹81,53,760/-**. 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. Insurance Company 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 per award.

10. In the event of demise of any of the claimants before or after disposal of this appeal, compensation of his/her share shall be paid to surviving claimant(s).

February 26, 2019 **(SURINDER GUPTA)**
jk **JUDGE**

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