

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****FAO-4256-2009****Reserved on: 24.09.2024****Pronounced on: 27.09.2024****SUSHILA AND OTHERS****. . . .APPELLANTS****Vs.****ANIL KUMAR AND ANOTHER****. . . . RESPONDENTS****CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

Present:- Ms. Ekta Thakur, Advocate, for the appellants.

Mr. Rohit Verma, Advocate, for the respondents.

DEEPAK GUPTA, J.

Claimants are before this Court against the award dated 01.04.2009 passed by Id. Motor Accident Claims Tribunal, Chandigarh, whereby compensation of ₹8,72,460/- has been awarded on account of death of Bimal Chander, who died in a motor vehicle accident on 03.03.2005.

2. There is no dispute regarding the negligence of the offending vehicle; or the liability to pay the compensation on the part of Insurance Company. The only dispute raised before this Court is regarding the quantum of compensation. Claimants are the widow and two children of deceased Bimal Chander, who was aged 48 years and employed as senior scale stenographer in Haryana Power Generation Ltd., Panchkula on regular basis.

3. The only dispute raised by Id. counsel for the claimants-appellants is that the deceased was getting a salary of ₹15,525/- per month and that the Tribunal has taken into consideration his salary as ₹13,595/- and that the amounts payable under various heads had not been taken into consideration. Another contention raised by the Id. counsel is that deceased being 48 years of age, multiplier of 13 was liable to be applied, but the Tribunal has applied the multiplier of 8. Not only this, the Tribunal failed

in not granting any compensation towards loss of estate, funeral expenses and loss of consortium.

5. Ld. counsel for the insurance company-respondent could not refute any of the aforesaid contentions as raised by counsel for the claimants-appellants.

6. It is not the dispute that the deceased Bimal Chander was aged 48 years. He was a Senior Scale Stenographer in the Haryana Power Generation Limited and thus, a permanent salaried employee. He was getting salary of ₹15,525/- per month. As per the salary certificate, bifurcation of the salary is as under: -

Basic Pay	7950
Special Pay	60
Special Allowance	150
City Compensatory Allowance	200
House Rent Allowance	1135
Electricity Allowance	135
Additional Dearness Allowance	1670
Dearness Pay	3975
Handicap Allowance	250
Total	15,525/-

7. The Tribunal has taken into consideration only the amount payable under the head of Basic Pay, Additional Dearness Allowance and Dearness Pay. Rest of the amount as payable under the heads of Special Pay, Special Allowance, City Compensation Allowance, House Rent Allowance, Electricity Allowance and Handicap Allowance has not been taken into consideration without giving any justification whatsoever. This Court agrees with the contention of Id. counsel for the appellants-claimants that all these amounts being part of the salary were liable to be taken into consideration and have being wrongly ignored by the tribunal.

8. Further, the age of the deceased being 48 years is also not in dispute and therefore, as per “**Sarla Verma and others v. Delhi Transport Corporation and another**”, (2009) 6 Supreme Court Cases 121, multiplier of 13 was liable to be applied. Similarly, in view of the law explained by Hon’ble Supreme Court in “**National Insurance Company Limited v. Pranay Sethi and others**” 2017(4) RCR (Civil) 1009, the claimants were also entitled to be granted compensation under the heads of Loss of Estate, Funeral Expenses and Loss of Filial and spousal compensation.

9. In view of the above, the compensation payable to the claimants-appellants is worked out as under:-

	Deceased : Bimal Chander Age : 48 years Number of claimants : 3	Compensation awarded by MACT (in ₹)	Compensation assessed by this Court (in ₹)
1.	Monthly earning of deceased	13,595/-	15,525/-
2.	Annual Income	1,63,140/-	1,86,300/-
4.	Deduction for self-expenses	1/3	1/3
5.	Annual income after deduction for self-expenses	1,63,140 – 54,380= 1,08,760/-	1,86,300 – 62,100 = 1,24,200/-
6.	Addition for future prospects	Nil	30%
7.	After adding future prospects of 30 %	Nil	1,24,200 + 37,260 = 1,61,460/-
8.	Multiplier	8	13
9.	Compensation	1,08,760 x 8 = 8,70,080/-	1,61,460 x 13 = 20,98,980/-
10.	Loss of estate	-	18,000/-
11.	Funeral expenses	-	18,000/-
12.	Loss of consortium		
	(i) Filial	-	48,000 x 2= 96,000/-

	(ii) Spousal		48,000/- Total = (1,44,000/-)
13.	Medical Expenses (prior to death)	2380/-	2380/-
	Total compensation	8,72,460/-	22,81,360/-
	Enhanced compensation	14,08,900/-	

10. As such, present appeal is partly accepted. The Award passed by the Tribunal is hereby modified by enhancing the compensation amount from ₹8,72,460/- to ₹22,81,360/-. It is held further that claimants shall be entitled to enhanced compensation of ₹14,08,900/-alongwith interest @ 7.5% per annum from the date of filing of the claim petition till its realization, in the same proportion as allowed by the Tribunal.

Disposed of.

27.09.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes
No