IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.555 of 2002 (O&M)
Date of Decision: 09.07.2015

Gomti and others

......Appellants

Versus

Chhabila Ram and others

......Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

1. **Whether Reporters of local papers may be allowed to see the judgment? Yes**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest? Yes**

Present:- Mr. Dheeraj Narula, Advocate,
for appellants.

Respondent No.4 already ex parte.

Mr. R.L.Singhal, Advocate,
for respondent No.7-Insurance Company.

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SHEKHER DHAWAN, J

Present appeal is against award dated 01.10.2001 by Motor Accident Claims Tribunal, Sirsa (hereinafter referred as 'The Tribunal') whereby 'The Tribunal' awarded compensation to the tune of ₹2,84,000/- on account of death of Balbir.

2. Facts relevant for the purpose of decision of present appeal are that on 02.07.1999 Balbir (since deceased) along with Smt. Kamla, Smt. Sarjan and Rajpal were going to village Kahnewala on a Jeep bearing registration No.JKR-8212 which was being driven by Rajpal. At about 11.30 am. when they reached in the area of village Shahpur Begu a canter bearing registration No.RJ-30G-0244 which was being driven by respondent

No.1-Chhabila Ram in rash and negligent manner against Jeep No.JKR-8212. Resultantly, Rajpal and Kamla received serious and grevious injuries and both of them died because of the injuries sustained in the accident. Balbir was agriculturist by profession and also running a milk dairy. He was also engaged in the business of sale and purchase of used vehicles and earning ₹12,000/- per month and was a young man of 38 years of age.

3. Appellants has taken the plea that 'The Tribunal' wrongly assessed the income to be ₹2100/- per month which is on the lower side whereas the income should have been assessed @ ₹13/14,000/- per month. Even correct multiplier has not been applied as 'The Tribunal' applied multiplier of 16 whereas it should have been 18. 'The Tribunal' has not awarded any amount on account of loss of consortium and love and affection and enhancement on account of future prospects of earnings. The rate of interest is also on the lower side and same should have been 12% per annum at least.

4. Learned counsel for respondent No.7-Insurance Company took the plea that 'The Tribunal' has already awarded just compensation. Keeping in view the facts and circumstances, evidence available on file, income of the deceased has rightly been taken to be ₹2100/- per month. There was no contrary evidence available on file, so the appeal is without any merit and same be dismissed.

5. Taking the relevant facts of the case into consideration, this Court is of the considered view that income of the deceased has rightly been taken to be ₹2100/- per month by 'The Tribunal' and there is nothing contrary on the record calling for interference by this Court by way of present appeal to set aside the findings of 'The Tribunal' and as such income of the deceased is taken to be ₹2100/- per month especially in view of the fact that accident

had taken place on 02.07.1999.

6. As regards to the increase on account of future prospects of earnings, the deceased in this case was of the age of 38 years but 'The Tribunal' has not awarded any amount on account of increase of earnings. Keeping in view of the age of the deceased, as per law laid down by Hon'ble Supreme Court in case ***Rajesh and others Vs. Rajbir Singh and others 2013 (9) SCC 54*** 50%addition is to be made to the earnings in this case as deceased was less than 40 years of age. Apart from that, claimants are entitled to a sum of ₹25,000/- towards funeral expenses and a sum of ₹1,00,000/- each to two minor sons and one minor daughter of deceased Balbir and ₹1,00,000/- to widow of deceased Balbir on account of consortium which has not been awarded by 'The Tribunal'. 'The Tribunal' has also deducted 1/4th on account of self-dependency although claimants in this case although these were four claimants including widow and three minor children. Hence, 1/4th amount was to be deducted on account of self-dependency as per law laid down by Hon'ble Supreme Court in case **Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(3) RCR (Civil) 77.** Accordingly the amount of compensation is being re-assessed as under:

Monthly income	₹2100/-
Annual income	₹25,200/-
Less 1/4th	₹6,300/-
Add 50% (₹6,300/- + ₹3,150/-)	₹9,450/-
Multiplier of 16	₹4,53,600/-
Loss of consortium	₹1,00,000/-
Funeral expenses	₹25,000/-

Loss of love and affection for three minor children	₹3,00,000/-
Total compensation	₹8,78,600/-
Compensation already awarded	₹2,84,000/-
Total enhanced compensation	₹5,94,600/-

7. The appeal is partly allowed accordingly and the awarded amount is enhanced by ₹5,94,600/- and the said amount will be payable from the date of claim petition. Appellants shall be entitled to the interest @ 7.5% per annum on the enhanced amount from the date of filing of the claim petition till its realization as per law laid down by Hon'ble Supreme Court **K.S.Radhakrishnan, Dipak Misra Subulaxmi Vs. M.D., Tamil Nadu State Transport Corp. & Anr. 2012 Legal Eagle (SC) 570** and view of Division Bench this Court in **United India Insurance Company Ltd. Vs. Pinki Walia 2001 Legal Eagle (P&H) 619**. However, remaining conditions regarding apportionment and disbursal of amount shall remain unaltered.

8. Appeal partly accepted.

(SHEKHER DHAWAN)
JUDGE

July 09, 2015
msd