**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**FAO No.10462 of 2014 (O&M)
Date of Decision: 28.09.2018**

Ashish Verma and another

... Appellants

Versus

Uchit Sharma and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Deepak Aggarwal, Advocate,
for the appellants.

Mr. Vishwajit Bedi, Advocate,
for respondent No.3.

TEJINDER SINGH DHINDSA, J.(ORAL)

This is a claimants' appeal seeking enhancement of compensation.

Brief facts are that a claim petition was filed under Section 166 of the Motor Vehicles Act seeking compensation to the tune of Rs.60 lakhs on account of death of Aashi Verma in a motor vehicle accident that took place on 12.05.2012.

Claimants were the husband and minor daughter of the deceased. It was asserted in the claim petition that Aashi Verma since deceased while proceeding on a scooter had been struck by a truck bearing registration No.PB-11E-6739 and on account of which she suffered grievous injuries and to which she succumbed on the same very day.

Claim petition having been contested, the following issues were framed by the Tribunal:

1. ***"Whether Aashi Verma died in a motor vehicle accident with offending vehicle bearing registration No. PB-11E-6739 being driven by respondent No.1 rashly and negligently? OPP***
2. ***If issue No.1 is proved, whether the claimants are entitled to receive compensation, if so to what extent and from whom? OPP***
3. ***Whether respondent No.1 was not holding a valid driving license at the time of the accident? OPR3***
4. ***Whether the claim petition is bad for non-joinder of necessary parties? OPR3***
5. ***Relief."***

In terms of award dated 22.02.2014 passed by the Motor Accident Claims Tribunal, Patiala, findings were returned in favour of the claimants on issue No.1 and it was held that death of Aashi Verma took place on account of injuries suffered in the accident involving the offending/insured truck and which was being driven in a rash and negligent manner by the driver, namely, Uchit Sharma.

Insofar as compensation amount is concerned, the same has been computed to Rs.16,25,864/- along with interest @ 7.5% per annum from the date of filing of the claim petition till actual realization. The liability to pay the compensation amount was held to be joint and several.

Since the only issue involved in the instant appeal is with regard to quantum of compensation, I have heard counsel for the appellants/claimants as also for the contesting respondent

Insurance Company.

In the considered view of this Court, compensation amount awarded by the Tribunal vide award dated 22.02.2014 would require to be re-visited and re-assessed.

Claimants had set up a claim that Aashi Verma (since deceased) was a permanent employee with ICICI Bank and was earning Rs.20,084/- per month. Deceased was stated to be 32 years of age as on the date of the accident.

To substantiate such claim, the claimants had produced on record the salary slips of the deceased as Ex.C4 to Ex.C6 which were for the months of February, March and April, 2012 and likewise even examined Sh. Himashu, Assistant Manager, ICICI Bank as CW-3 who also adduced on record the salary slips as also the service profile of the deceased reflecting her age to be 32 years. Accordingly, insofar as assessment of the monthly income of the deceased to be Rs.20847 and her being 32 years of age as on the date of the accident does not call for any interference.

Tribunal has awarded an addition in income @ 50% towards future prospects keeping in view the age bracket of the deceased. Even such addition in income towards future prospects is as per dictum laid down by the ***Hon'ble Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.***

The multiplier of 16 has been adopted and which is as per parameters laid down by the Apex Court in ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another 2009 (3)***

RCR (Civil) 77.

While computing compensation, a two fold error has crept into the award. Deceased is survived by a husband as also a minor daughter. Even if husband was taken to be a dependent, a 1/3rd deduction ought to have been taken from the monthly income instead of 1/4th that has been done by the Tribunal. It is so directed. The second error is with regard to multiplier of 16 having been applied not to the multiplicand but to the amount towards deduction. Such error would require rectification. It is directed that multiplier of 16 is to be applied to the multiplicand i.e. after making deduction of 1/3rd from the monthly income assessed by the Tribunal.

I find weight in the submission advanced by the learned counsel representing the Insurance Company that the Tribunal has awarded excess amount under the conventional heads i.e. Rs.1,25,000/-. By following the judgment in ***Pranay Sethi's case (supra),*** such amount would now stand scaled down to Rs.70,000/- under the conventional heads.

In view of the above, the compensation amount awarded is re-assessed and calculated as follows:-

Sr. No.	Head	Calculation
1.	Income Rs.20,847/- p.m.	Rs.20,847/-
2.	Addition in income @ 50% towards future prospects	Rs.10423/- Rs. 20847 +10423=Rs.31270/-
3.	1/3rd deduction towards personal and living expenses of the deceased	Rs.31270-10319=20951/- Rs. 20951 x 12=2,51,412/-
3.	Compensation after applying multiplier of 16	Rs.2,51,412 x 16=40,22,592/-

4.	Conventional Heads: loss of estate, loss of consortium and funeral expenses	Rs.70,000/-
	Total	Rs.40,92,592/-

The claimants would be entitled to the afore-calculated enhanced compensation along with interest @ 6% per annum from the date of filing of the appeal till actual realization. The apportionment as directed by the Tribunal would stay intact.

Appeal is allowed in the aforesaid terms.

28.09.2018 **(TEJINDER SINGH DHINDSA)**
vandana **JUDGE**

Whether speaking/reasoned Yes
Whether Reportable No