IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2023 of 2014 (O&M)

Champa Devi and others ...Appellants

Versus

Udey Bhan and others ...Respondents

and

FAO No.2024 of 2014 (O&M)

Randhir and another ...Appellants

Versus

Udey Bhan and others ...Respondents

Date of Decision: January 24, 2018

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Ram Pal Verma, Advocate for the appellants.

Mr.N.K.Manchanda, Advocate for the respondent – Insurance Company.

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HARINDER SINGH SIDHU, J.

This judgment shall dispose of two appeals i.e. FAO No.2023 and 2024 of 2014, filed by the claimants for enhancement of compensation, arising out of the common award dated 20.2.2013 passed by the Motor Accident Claims Tribunal, Sonipat (for short 'the Tribunal').

Brief background of the case is that on 13.8.2011, both the deceased, namely Rajesh son of Manphool and Rajesh son of Randhir Singh were going from Village Madina, Tehsil Gohana to city Gohana for purchasing household articles by riding on motorcycle No.HR-10H-5884. Rajesh son of Randhir was driving the motorcycle, while Rajesh son of Manphool was the pillion rider. When they reached near the petrol pump of Ramesh Khatik at Meham road, Gohana, a Mahindra jeep bearing No.HR-

46B-7544, driven by respondent No.1 in a rash and negligent manner, struck against the motorcycle, as a result of which both the occupants of the motorcycle sustained multiple injuries. Rajesh son of Manphool died at the spot, whereas, Rajesh son of Randhir succumbed to the injuries at PGIMS, Rohtak. FIR No.249 dated 14.8.2011 under Sections 304-A, etc. IPC was registered in Police Station Gohana City against respondent No.1.

Two separate claim petitions were filed seeking compensation for the death of the deceased.

In the claim petition filed by the legal representatives of Rajesh son of Manphool, the Tribunal assessed the income of the deceased at Rs.6000/- treating him to be skilled labourer as he was running a tailoring shop. Considering the number of dependants of the deceased i.e. five (widowed mother, wife and three minor children) 1/3rd was deducted towards personal living expenses of the deceased and considering the age of the deceased (35 years), multiplier of 16 (4000x12x16=7,68,000/-) was applied. That apart, Rs.10,000/-, each, for 'transportation charges and funeral expenses' and 'loss of consortium' were also awarded. The claimants – appellants were held entitled to compensation of Rs.7,88,000/- along with interest.

In the claim petition filed by the legal representatives of Rajesh son of Randhir, who was aged about 24 years at the time of death, the Tribunal assessed his income at Rs.5400/- per month treating him to be a labourer. The claimants are the parents and widow of the deceased. The Tribunal deducted 1/3rd towards personal living expenses of the deceased and held the loss of dependency at Rs.3600/- per month. Multiplier of 18 was applied and the total loss of dependency was held to be Rs.7,77,600 (3600x12x18). In addition, Rs.10,000/-, each, for 'transportation charges and funeral expenses' and 'loss of consortium' were also awarded. The claimants – appellants were held entitled to compensation of Rs.7,97,600/- along with interest.

Learned counsel for the appellants while challenging the award has made two-fold submission – (i) the Tribunal has not awarded future prospects and (ii) it also erred in not deducting proper amount towards personal expenses of the deceased, as per the settled law.

I have heard learned counsel for the parties and with their assistance gone through the paper-book.

The facts are not in dispute.

In view of the decision of the Constitution Bench of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 AIR(SC) 5157,** the compensation is re-assessed as under:-

In FAO-2023-2014 (death of Rajesh son of Manphool) :

Sr.No.	Heads	Amount (In Rs.)
(i)	Income @ Rs.6000/- per month	
	40% of above (i) to be added as future prospects (deceased aged 35 yrs.)	*6000+2400 = 8400/- per month*
(ii)	*Monthly loss of income after deduction of 1/4th of (i) as personal expenses of the deceased (Five dependants)*	*8400-2100 = 6300/-*
(iii)	*Total loss of income after multiplier of 16 is applied*	*6300x12x16 = 12,09,600/-*
(iv)	*Loss of Estate*	*15,000/-*
(v)	*Funeral Expenses*	*15,000/-*
(vi)	*Loss of Consortium (exclusively payable to the widow of deceased)*	*40,000/-*
	TOTAL COMPENSATION	*12,79,600/-*

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the claimants – appellants are held entitled to total compensation of Rs.12,79,600/-, that is, Rs.4,91,600/- (1279600-788000) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

In FAO-2024-2014 (death of Rajesh son of Randhir) :

Sr.No.	Heads	Amount (In Rs.)
(i)	Income @ Rs.5400/- per month	
	40% of above (i) to be added as future prospects (deceased aged 24 yrs.)	*5400+2160 = 7560/- per month*
(ii)	*Monthly loss of income after deduction of $1/3^{rd}$ of (i) as personal expenses of the deceased (Three dependants)*	*7560-2520 = 5040/-*
(iii)	*Total loss of income after multiplier of 18 is applied*	*5040x12x18 = 10,88,640/-*
(iv)	*Loss of Estate*	*15,000/-*
(v)	*Funeral Expenses*	*15,000/-*
(vi)	*Loss of Consortium (exclusively payable to the widow of deceased)*	*40,000/-*
	TOTAL COMPENSATION	*11,58,640/-*

Accordingly, the appeal is allowed and the Award of the Tribunal is modified to the extent that the claimants – appellants are held entitled to total compensation of Rs.11,58,640/-, that is, Rs.3,61,040/- (1158640-797600) over and above the amount awarded by the Tribunal. Interest shall be paid on the enhanced amount at the rate of 7.5% per annum from the date of filing of claim application till realisation.

January 24, 2018

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No