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

**213** **FAO-5896-2013 (O&M)**

**Date of Decision:04.04.2018**

**Labh Kaur and another** **.....Appellants**

**Versus**

**Harjinder Singh and others** **.....Respondents**

**CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.**

**Present: Mr. Vinod K. Kanwal, Advocate for
Mr. Ashit Malik, Advocate,
for the appellants.**

**None for respondent No.1.**

**Mr. Sanjeev Goyal, Advocate,
for respondent No.11-Insurance Company.**

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**<u>HARI PAL VERMA, J.(Oral)</u>**

**<u>CM-24332-CII-2013</u>**

Prayer in this application is for condonation of 97 days' delay in filing the appeal.

For the reasons stated in the application, same is allowed and the delay of 97 days in filing the appeal, is condoned.

**<u>FAO-5896-2013</u>**

Appellants-claimants have filed the present appeal against the award dated 07.03.2013 passed by learned Motor Accident Claims Tribunal, Kurukshetra (for short “the Tribunal”), whereby in a claim-petition filed under Section 166 of the Motor Vehicles Act, 1988, on account of death of Mandeep Singh in a motor vehicular accident, which took place on

02.07.2010, the Tribunal has awarded a total compensation of ₹7,22,000/-.

As per claim-petition on 02.07.2010, Mandeep Singh (since deceased) was going along with Ashish Kumar from village Ismailabad to village Rewa on a motorcycle bearing registration No.HR-07P-0586 being driven by Ashish Kumar at a normal speed. They were followed by Ram Kumar son of Naib Singh and Swaran Kumar son of Tej Ram. When they reached near godown of Bhagwan Dass on Shahbad-Barara road, the offending tractor bearing registration No.HR-33-5074 came from the opposite side in a rash and negligent manner, at a very fast speed. Ashish Kumar took his motorcycle on the 'kacha' portion on the left side, but the offending vehicle struck against the motorcycle. Both the occupants fell down and sustained injuries. After the accident, the driver fled away from the place of occurrence after leaving the offending vehicle. Both the injured were shifted to CHC, Shahbad, where Mandeep Singh was declared dead. An FIR No.244 dated 03.07.2010 under Sections 279, 337, 304-A IPC was registered in this regard.

Deceased-Mandeep Singh was a unmarried boy of 22 years of age and was a student of B.A.1st Year. As per claim-petition, he was earning ₹10,000/- per month by doing agriculture works and business. On the basis of document Mark A-8, which is matriculation certificate of Mandeep Singh showing his age and Mark A-9 is the result of Bachelor of Arts (Part-I) exams held in April, 2010, the Tribunal has taken his notional as ₹5,000/- per month and awarded a total compensation of ₹7,22,000/-.

Not satisfied with the aforesaid amount of compensation, the appellants-claimants have preferred the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that the Tribunal has wrongly assessed the income of the deceased. He was a student of B.A. 1st Year and passed the matriculation examination in 1st Division by obtaining marks 507 out of 605 and his future was bright. He has further argued that the claimants are entitled to future prospects @ 40% instead of 30% as granted by the Tribunal, in view of law laid down by Hon'ble Apex Court in case **National Insurance Company Limited Versus Pranay Sethi and others, 2017 (4) R.C.R (Civil) 1009.** Even the amount awarded under the conventional heads needs modification.

On the other hand, learned counsel for respondent No.11-Insurance Company has argued that adequate compensation has already been awarded and since there was no evidence as regards the income of the deceased, the Tribunal has rightly assessed the income of the deceased as ₹5,000/- per month.

I have heard the learned counsel for the parties.

There is no dispute that deceased-Mandeep Singh who was about 22 years of age had died in a motor vehicular accident, which took place on 02.07.2010. He was a student of B.A. 1st Year at the time of accident. Though the claimants have claimed compensation on the basis of notional income of the deceased as ₹10,000/- per month, but, in the case **Shri Nagar Mal and others Versus Oriental Insurance Company Limited and others, 2018 AIR (SC) 568**, the Hon'ble Apex Court has awarded the compensation by assessing notional income of the student as ₹6,000/- per month and in that case, the deceased was pursuing a professional Chartered Accountancy course. He was 22 years of age. In that case, the accident took place on 15.11.2008 and still the Tribunal assessed the income of the deceased as ₹6,000/-, whereas in the case in hand, the accident took place on 02.07.2010 and deceased-Mandeep Singh who was a student of B.A. 1st Year, is stated to be a bright student and passed his matriculation examination in 1st Division, therefore, this Court has no hesitation to assess the income of the deceased as ₹6,000/- per month while adhering to the judgment passed in **Shri Nagar Mal's case (supra).** Since, deceased-Mandeep Singh was unmarried at the time of accident, 50% deductions are to be applied.

As regards, the issue of awarding future prospects is concerned, the Hon'ble Apex Court in paragraph 7 of the judgment in **Shri Nagar Mal's case (supra)**, has held as under:-

> *"7. However, we find merit in the submission which has been urged on behalf of the appellants that the Tribunal failed to apply the correct multiplier and erred in not granting the benefit of future prospects in computing the income of the deceased and the loss of dependency. Having due regard to the judgment delivered by the Constitution Bench of this Court in* ***National Insurance Company Limited v. Pranay Sethi, 2017 (4) RCR (Civil) 1009: (2017) 13 SCALE 12*** *and in* ***Sarla Verma v. Delhi Transport Corporation, 2009(3) R.C.R. (Civil) 77 : 2009 (3) Recent Apex Judgments (R.A.J.) 373 : (2009) 6 SCC 121*** *the correct multiplier should be 17 having regard to the age of the deceased. An addition of 40 per cent towards future prospects would also be warranted in terms of the judgment of the Constitution Bench. On this basis and since the deceased was a bachelor, the loss of dependency would work out to ₹8,56,800/-. The appellants would be entitled to an amount of ₹15,000/- towards loss of estate and ₹15,000/- towards funeral expenses. The award of compensation accordingly stands quantified at ₹8,86,800/-.*

*The appellants are allowed interest @ 7.5% p.a. from the date of the filing of the petition before the M.A.C.T. till realization."*

Accordingly, considering the notional income of the deceased as ₹6,000/- per month and by awarding future prospects awardable to the claimants, this Court finds that the claimants are entitled to compensation in the following manner:-

| | | |
|---|---|---|
| Monthly income | : | ₹6,000/- |
| Future prospects (40%) | : | ₹2,400/- |
| Total monthly income | : | ₹8,400/- |
| Annual income | : | ₹1,00,800/- |
| Deductions (50%) | : | ₹50,400/- |
| Total loss of dependency (₹50,400 x 18) | : | ₹9,07,200/- |
| Loss of estate | : | ₹15,000/- |
| Funeral expenses | : | ₹15,000/- |
| Total amount of compensation | : | ₹9,37,200/- |
| Amount already awarded | : | ₹7,22,000/- |
| Enhanced amount | : | ₹2,15,200/- |

The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing the claim-petition till its realization.

Since the appeal has been filed after a delay of 97 days, the appellants-claimants shall not be entitled to interest for the delayed period.

With the aforesaid modification in the award, the present appeal stands disposed of.

April 04, 2018 **(HARI PAL VERMA)**
seema **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No