IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5498 of 2014 (O&M)
Date of Order: 12.11.2018

Baljinder Kaur and another

..Petitioner

Versus

Harmesh and another

..Respondents

FAO NO.6157 of 2014 (O&M)

Harmesh

...Appellant

Versus

Iffco Tokio General Insurance Co. Ltd. and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vivek Suri, Advocate,
for the appellants (in FAO No.5498 of 2014)

Mr. Subhash Goyal, Advocate,
for respondent no.1 (in FAO No.6157 of 2014)
for respondent no.2(in FAO No.5498 of 2014)

ANIL KSHETARPAL, J(Oral)

By this judgment, two appeals i.e. FAO No.5498 and 6157 of 2014, which arise from a motor vehicular accident dated 12.04.2012, shall stand disposed of.

Pardeep Singh, a young boy of 17 years, died on 22.05.2012. One appeal has been filed by the owner i.e. FAO No.6157 of 2014, against the order passed by the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal), absolving the Insurance Company on the ground that the driving licence has not been produced. An application for additional evidence was filed and the Insurance Company was granted opportunity to verify the correctness of the driving licence produced by way of additional evidence, as per order dated 12.04.2016. On 23.11.2016, after the verification, Manager (Legal) of the Insurance Company appeared and admitted that the driver of the offending vehicle was having a valid driving licence on the date of accident. Affidavit to that effect has also been filed.

Keeping in view the aforesaid facts, the application is allowed. Insurance Company had already been granted opportunity to verify the genuineness of the driving licence produced. Hence, no further opportunity is required. Accordingly the appeal filed by the owner i.e. FAO No.6157 of 2014 stands allowed and the order absolving the Insurance Company shall stands set aside.

FAO No.5498 of 2014

Now let's deal with the appeal filed by the claimants, namely, mother and the grand mother of Pardeep Singh.

Pardeep Singh was aged about 17 years, studying in 10+2 class. Learned Tribunal has assessed the notional income at Rs.6000/- and worked out dependency at Rs.4000/-. However, as per the judgment passed by the Constitution Bench in the case of ***National* Insurance Company Limited vs. *Pranay Sethi and others, JT 2017(10) SC 450***, 50% is to be taken as a dependency in case of an unmarried person. Thus, the dependency is worked out Rs.3,000/-. However, learned Tribunal has erred in not making the addition in the income on account of future prospects, which is being contested by learned counsel for the Insurance Company.

However, keeping in view the binding precedent in the case of ***National* Insurance Company Limited (supra)**, 40% of the income is added towards future prospects. Accordingly, dependency works out to Rs.5400/-. Since, the age of deceased was 17 years, therefore, multiplier of 18 would be applicable. On account of conventional heads, although, the court has granted Rs.25,000/- towards funeral expenses, however, Rs.15,000/- would be payable towards loss of estate and Rs.15,000/- towards funeral expenses. In a subsequent judgment, the Hon'ble Supreme Court while deciding Civil Appeal No.9581 of 2018 (***Magma General Insurance Co. Ltd. V Nanu Ram alias Chuhru Ram and others)*** has held that parents are also entitled to filial consortium @ Rs.40,000/- each. However, since, in the present case, out of parents, only mother is the appellant, hence Rs.40,000/- are being granted to the mother.

In view of the aforesaid, the amount is re-worked as under:-

Heads	***Compensation awarded by MACT***	***Compensation awarded by High Court***
Monthly Income assessed	Rs.6000/- per month	Rs. 6000/-per month
Add Future Prospects 40% Total Income per month		Rs.2400/- per month Rs.8400/- per month
(-) 1/3 Deduction	(-)Rs.2000/- Rs.4000/-	Rs.4200/- (50%)
Annual dependency	4000x12=48,000/-	Rs.4200x12=50,400/-
Multiplier	48000x15=7,20,000/-	Rs.50,400x18=9,07,200/-
Conventional Heads -Loss of estate -Funeral Expenses -Filial Consortium -Loss of love & affection -Medical Bills Total Compensation	 NIL Rs.25,000/- NIL Rs.5000/- Rs.11,25,249/- Rs.18,75,249/-	 Rs.15000/- Rs.15000/- Rs.40000/- NIL Rs.11,25,249/- Rs.21,02,449/-
Already awarded by Motor Accident Claims Tribunal	Rs.18,75,249/-	

Heads	***Compensation awarded by MACT***	***Compensation awarded by High Court***
Compensation Awarded by the High Court	: Rs.21,02,449-00	
(-)Compensation Awarded by the **MACT**	: Rs.18,75,249-00	
Enhanced Compensation	: Rs. 2,27,200-00	

In view of the above, both the appeals are allowed.

The enhanced amount i.e. Rs. 2,27,200/- shall carry interest @ 7.5% from the date of filing of the claim petition till its realization.

November 12, 2018 **(ANIL KSHETARPAL)**
nt **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No