IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.6604 of 2014 (O&M)
Date of Decision: 26.11.2018

Gurpreet Singh and another ...... **Appellants**

Versus

United India Insurance Company Ltd. and others ...... **Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Chandandeep Singh, Advocate for the appellants.

Mr. Lalit Garg, Advocate for respondent No.1.

Mr. Vaibhav Sehgal, Advocate for respondents No.2 to 5.

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ANIL KSHETARPAL, J. (ORAL)

Claimants have come up in appeal seeking enhancement of the compensation. The claimants are widow, three minor children and mother of late Sh. Amarjit Singh aged 43 years who died in a motor vehicular accident on 18.04.2012. Learned Motor Accident Claims Tribunal after assessing the income at Rs.5,000/- per month applied a cut of 1/4th towards personal expenses and thus worked out Rs.7,57,000/- (including Rs.1,00,000/- consortium to claimant No.1 i.e. wife of Amarjit Singh) as compensation payable. Learned counsel for the appellants while referring to the Constitution Bench judgment in the case of *National Insurance Company Ltd. Vs. Pranay Sethi, 2017(4) RCR (Civil), 1009*, has submitted that the Motor Accident Claims Tribunal has failed to enhance the income by adding future prospects. He submits that as per the judgment of the Hon'ble Supreme Court in the case of Pranay Sethi (supra), 25% income is to be added towards future prospects.

He further submits that on account of loss of estate, no amount has been awarded. He further submitted while relying upon a subsequent judgment of the Hon'ble Supreme Court in the case of *Magma General Insurance Company Ltd. Vs. Nanu Ram alias Chuhru Ram and others 2018(4) Law Herald (P&H) 2786* that mother would be entitled to Rs.40,000/- for loss of filial consortium.

Keeping in view the submissions made which, although, opposed by learned counsel for the Insurance Company and the owner, this Court finds that the submission made by learned counsel for the appellants for enhancement is genuine. Accordingly, the income of the deceased for the purpose of calculating dependency would be Rs.6250/-. On account of personal expenses cut of 1/4th would be imposed. On account of conventional heads i.e. funeral expenses Rs.15,000/-, loss of consortium Rs.40,000/-, loss of filial consortium to the mother Rs.40,000/- and loss of estate Rs.15,000/-.

Hence, the compensation payable is re-worked as under:-

Heads	***Compensation awarded by MACT, Ludhiana***	***Compensation awarded by High Court***
Income assessed	Rs.5,000/-	Rs.5,000/-
+ Future prospects	Nil	(25%) Rs.1250/- 5,000 + 1250 = Rs.6250/-
– Deduction	(1/4th) 1250 5,000 – 1250 = Rs.3750/-	(1/4th) 1562 6250 – 1562 = Rs.4688/-
Annual dependency	3750 x 12 = Rs.45000/-	4688 x 12 = Rs.56,256/-
Multiplier	45,000 x 14 = 6,30,000/-	56,256 x 14 = 7,87,584/-
Conventional Heads i) Loss of Estate ii) Consortium iii)Funeral expenses iv) Filial Consortium v) Hospital charges	 NIL Rs.1,00,000 (claimant No.1) Rs.20,000/- Nil Rs.7200/-	 Rs.15,000/- Rs.40,000/- Rs.15,000/- Rs.40,000/- Rs.7200/-
Total Compensation	Rs.7,57,200/-	Rs.9,04,784/-
Enhanced Compensation		Rs.9,04,784/- (9,04,784 – 7,57,200) **Rs.1,47,584/-**

The enhanced compensation shall be payable along with interest @ 7.5% per annum from the date of the petition till realization.

The pending miscellaneous applications, if any shall stands disposed of accordingly.

Appeal is disposed of.

(ANIL KSHETARPAL)
JUDGE

26.11.2018
Dinesh Bansal

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No