IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212 **FAO-2403-2009**

Date of Decision : August 20, 2019

ANIL KUMARI AND ANR

.....Appellants

VERSUS

JAI KUMAR AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Som Nath Saini, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.2.

Ms. Navjot Kaur, Advocate for
Mr. Vishal Gupta, Advocate
for respondent No.3.

NIRMALJIT KAUR, J. (Oral)

The present appeal is filed for enhancement of the award dated 24.12.2008 passed by the Motor Accident Claims Tribunal, Patiala.

While praying for enhancement, learned counsel for the appellants submitted that the income of the deceased has been taken on the lesser side as Rs.3,000/- was deducted towards TDS for the income received by him from the Post Office for the six months. He further stated that he was also taking tuition and two witnesses have come forward to depose. Secondly, the multiplier of 17 should have been applied instead of 10 as his age was 24 years. Further, no amount has been awarded towards the future prospectus. He was entitled to 40%.

Learned counsel for the respondent-Insurance Company, on the other hand, has pointed out that no income tax return was placed on record to show that his income to be Rs.3,000/- per month. In case Rs.3,000/- as TDS is taken into consideration, then his income obviously not more than Rs.5,000/- per month in any case. Further, in case he was not holder of a PAN card, the deduction would have been 20% which would have amounted to Rs.2500/- per month. There is no evidence on record that he was holder of a PAN Card. Hence, the income of the deceased is assessed on the higher side. It is further stated by learned counsel for the respondent-Insurance Company that the deceased being a bachelor, the deduction should have been 1/2nd and not 1/3rd as he is survived only by his parents and his father under no circumstances is dependent upon him. Therefore, the deduction of 1/3rd is on the higher side.

In view of the above, this Court finds that there is no sufficient evidence on record to interfere in the findings with respect to the income of the deceased as having been assessed as Rs.4,500/- per month. However, there is merit in the argument of learned counsel for the respondent-Insurance Company with respect to the wrong multiplier having been applied. The same should have been 18 instead of 10 in view of the age of the deceased. There is no dispute that he is also entitled to 40% towards future prospects as per the judgment rendered in the case of **National Insurance Company Limited** vs. **Pranay Sethi and others,** *2017 AIR(SC) 5157*. At the same time, learned counsel for the respondent-Insurance Company is also not able to dispute that the deduction should have been 50% and not 1/3rd.

In view of the above, the appellants are entitled to the enhancement as per the following calculation:-

Sr. No.	Head	Amount assessed
1	Income	Rs.4500/- p.m. x 12 = Rs.54000/-
2	Future Prospects @ 40%	(54000 x 40% = Rs.21,600) 54000+21600 = 75,600/-
3	Deduction 1/2nd	75,600 x 1/2 = Rs.37,800/-
4	Multiplier	37,800 x 18 = Rs.6,80,400/-
5	Conventional Heads	Rs.30,000/-
6	Total	Rs.7,10,400/-
7	Compensation awarded by the Tribunal	Rs.3,65,000/-
8	Differences	Rs.7,10,400 – 3,65,000 = Rs.3,45,400/-

Accordingly, the present appeal is allowed to the said extent. The enhanced amount of Rs.3,45,400/- be deposited within two months from the receipt of certified copy of this order alongwith 6% interest from the date of the claim petition till realization.

However, in case the same is not deposited within two months, the same shall thereafter be deposited alongwith interest @ 12% till payment after the expiry of two months.

(NIRMALJIT KAUR)
JUDGE

August 20, 2019
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No