IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

230 **FAO-4145-2015**

Date of Decision : August 26, 2019

URMILA DEVI AND ORS

.....Appellants

VERSUS

KRISHAN AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Ajit Sihag, Advocate for the appellants.

Mr. Sandeep Suri, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No.3-Insurance Company.

NIRMALJIT KAUR, J. (Oral)

The present appeal is filed for enhancement of the amount awarded by the Motor Accident Claims Tribunal, Bhiwani vide award dated 4.11.2014.

Learned counsel for the appellants prayed for enhancement of the amount already awarded under three heads. Firstly, the income has been assessed as Rs.2533/- per month on the basis of payment of Wages Act granted to a skilled labourer which is on lower side as the deceased was earning Rs.5 lacs per annum from the agriculture work as well as dairy farming and had also placed on record the certificate issued by the Dairy Development Department, Haryana. Secondly, no future prospects have been awarded. Thirdly, the amount towards consortium etc. should have been awarded Rs.70,000/- instead of Rs.20,000/-.

Learned counsel for the respondent-Insurance Company, on the other hand, while disputing the claim of the claimants submitted that the claimants were not able to produce any evidence to show the income but does not dispute that the appellants are entitled to 40% towards future prospects as well as Rs.70,000/- towards consortium etc. in view of the judgment rendered by the Hon'ble Apex Court in the case of **National Insurance Company Limited** vs. **Pranay Sethi and others,** *2017 AIR (SC) 5157*.

Heard.

The claimants examined PW3 Sanjay, who was cultivating the land of the deceased. As per him, the deceased was getting almost Rs.3 lacs per annum. Even the copy of the certificate showing that the deceased was running a dairy farming issued by the Dairy Development Department, Haryana was placed on record. Thus, under no circumstances, it can be said that his income was only Rs.2533/- per month i.e. Rs.80/- per day. In these circumstances, this Court is of the view that the deceased must atleast be earning Rs.200/- per day if not more. Hence, the income of the deceased is assessed as Rs.4,000/- per month. Admittedly, he is also entitled to 40% towards future prospects and Rs.70,000/- instead of Rs.20,000/- towards consortium etc. Hence, the appellants are entitled to the enhanced amount as per the provided calculation:-

Sr. No.	Head	Amount assessed
1	Income	Rs.4000/- p.m. x 12 = Rs.48000/-

Sr. No.	Head	Amount assessed
2	Future Prospects @ 40%	(4000 x 40% = Rs.1600) 4000+1600 = 5600/-
3	Deduction 1/4th	5600 x 1/4 = Rs.1400/- 5600-1400 = 4200
4		4200 x 12 =Rs.50,400/-
5	Multiplier	50400 x 17 = Rs.8,56,800/-
6	Conventional Heads	Rs.70,000/-
7	Total	Rs.9,26,800/-
8	Compensation awarded by the Tribunal	Rs.4,10,660/-
9	Differences	Rs.9,26,800 – 4,10,660 = Rs.5,16,140/-

Accordingly, the present appeal is allowed to the said extent. The enhanced amount of Rs.5,16,140/- 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 26, 2019
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No