IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-7919--2017
Date of Decision : September 06, 2019

RAJIV SHARMA AND ORS

.....Appellants

VERSUS

ASHISH KATARIA AND ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. T.C.Dhanwal, Advocate for the appellants.

Mr. Gaurav Aggarwal, Advocate for respondent No.1.

Mr. Shadab Ahmad, Advocate for
Mr. P.R.Yadav, Advocate for respondent No.2.

Mr. Raghujeet Singh Madan, Advocate
for respondent No.3-Insurance Company.

NIRMALJIT KAUR, J. (Oral)

The present appeal is filed for enhancement of the amount granted by the Motor Accident Claims Tribunal, Gurugram vide award dated 31.8.2017.

Learned counsel for the appellants while praying for enhancement submitted that the income of the deceased has been assessed on the lower side. The deceased was working as Accountant and he was earning Rs.15,000/- per month. It is further argued that the deduction is on the higher side whereas it should have been 1/3rd and not 50%. They were three claimants and were dependent upon him and, therefore, it should have been 1/3rd. Further no future prospects have been given.

Learned counsel for the respondent-Insurance Company while disputing the enhancement submitted that the deceased here was only 19 years of age at the time of the accident and he was studying. His father was still alive and, therefore, the mother and the minor brother of the deceased cannot be said to be dependent upon him. It is further stated that the deceased being a bachelor, 50% deduction was correctly made.

In view of the said arguments, this Court is in agreement with the learned counsel for the respondent-Insurance Company to the extent vide which the assessment of the income was Rs.9,000/- per month as also the deduction @ 50%. However, learned counsel for the respondent-Insurance Company is not able to dispute the well settled proposition of law as rendered in the case of **National Insurance Company Limited** **vs.** **Pranay Sethi and others,** *2017 AIR(SC) 5157* that the Tribunal was required to give 40% towards future prospects.

Learned counsel for the respondent-Insurance Company has, however, stated that the excessive amount has been given under the head of love and affection. It should have been granted to the extent of Rs.70,000/- as per Pranay Sethi's case (supra) but the deceased was entitled only Rs.30,000/- being a bachelor.

In view of the above, this Court deems it proper to enhance the amount @ 40% towards the future prospects but finds no reason to reduce the amount of Rs.1,25,000/- granted towards the love and affection, the claimants being the mother, father and minor brother in view of the judgment rendered in the case of **Magma General Insurance Co. Ltd.** **Vs.** **Nanu Ram @ Chuhru Ram & Ors**., *2018(4) R.C.R.(Civil)*

333 wherein Rs.40,000/- was given to each of the claimants and in case the same is taken into account, it comes to Rs.1,20,000/-.

In view of the above, the appellants-claimants are entitled to the enhanced amount as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	Rs.9000/- p.m. x 12 = Rs.1,08,000/-
2	Multiplier	1,08,000 x 18 = Rs.19,44,000/-
3	Deduction 1/2nd	972000/-
4	Future prospects	972000 x 40% = 388800 972000 +388800 = 1360800
5	Loss of love & affection	Rs.1,25,000/-
6	Funeral expenses	Rs.25,000/-
7	Expenses incurred on treatment of deceased before death	Rs.14,551/-
8	Total	Rs.1525351/-
9	Compensation awarded by the Tribunal	Rs.11,36,551/-
10	Differences	Rs.3,88,800/-

Accordingly, the present appeal is allowed to the said extent. The enhanced amount of Rs.3,88,800/- 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.

September 06, 2019 **(NIRMALJIT KAUR)**
ajay-1 **JUDGE**

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No