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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-7472-2017 (O&M)
Date of decision : 23.01.2020

Shilpa and others

... Appellants

Versus

Indraj and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Ashok Kumar Sharma, Advocate
for the appellants.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Punit Jain, Advocate for
Mr. M.B. Jain, Advocate
for respondent No.3.

ALKA SARIN, J.

The present appeal has been preferred against the award dated 10.05.2016 passed by the Motor Accident Claims Tribunal, Jind (for short 'the Tribunal'), whereby an amount of ₹13,00,000/- has been awarded as compensation along with interest @ 9% per annum from the date of filing of claim petition till realization.

2. Dissatisfied with the amount awarded, the claimants-appellants have preferred the present appeal for enhancement of the said amount.

3. In brief, the facts relevant to the present case are that the deceased, namely, Sandeep was serving as Mechanic in Nav Durga Industry at Rohtak. On the morning of 06.02.2015, Sandeep along with Bhagirath left his village Gatauli for going to Rohtak. Both were riding on their

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separate motorcycles. Sandeep (deceased) was riding on motorcycle bearing Registration No.HR-13-J-0963 and at about 5/6 a.m., when they reached Jind Bye-pass Chowk, Rohtak, a Haryana Roadways bus bearing Registration No.HR-57-8803, which was being driven in a rash and negligent manner, came from the side of Hisar Bye-pass and struck the motorcycle of Sandeep. As a result, Sandeep sustained multiple grievous injuries. Thereafter, he was shifted to PGIMS Rohtak, but succumbed to injuries on the way to the hospital. FIR No.50 dated 06.02.2015 under Sections 279/304-A of the Indian Penal Code was registered at Police Station City Rohtak.

4. The claim petition was filed by the claimants, namely, Shilpa wife, Mila @ Meena, mother and minor child of the deceased. It was stated in the claim petition that Sandeep was 28 years of age and was serving as Head Mechanic in Nav Durga Industry Rohtak and was earning ₹ 15,000/- per month as salary.

5. Respondent Nos.1 and 2 filed their separate written statements, wherein, they denied the factum of the accident and further raised the plea that the accident was caused due to the negligent driving of the deceased himself.

6. Respondent No.3-Insurance Company filed separate written statement by denying the factum of the accident as well as raised the plea that the driver of the bus was not holding a valid and effective driving licence.

7. Based on the pleadings and evidence of the parties, the Tribunal has awarded the following compensation:-

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Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹8000/-
2	Annual Income	₹8000x12 = ₹96000/-
3	Deduction 1/3 rd (₹32000/-)	₹64000/-
4	Multiplier '17'	₹1088000/- (64000x17)
5	Loss of Consortium	₹1,00,000/-
6	Love and affection	₹1,00,000/-
7	Last rites	₹12,000/-
8	Total Compensation	₹13,00,00/-

Along with interest @ 9% per annum from the date of filing of

the claim petition till realization.

8. Learned counsel for the appellants has contended that no amount towards future prospects, consortium as well as under conventional heads has been awarded to the claimants-appellants.

9. Per contra, learned counsel for respondent No.3/Insurance Company has contended that there was no scope for enhancement inasmuch as the Tribunal has awarded just and proper compensation.

10. I have heard learned counsel for the parties and gone through the record of the case with their able assistance.

11. As per law laid down by the Apex Court in the cases of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(6) Supreme Court Cases 121, Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others, (2018) 18 Supreme Court Cases 130, and National Insurance Company Ltd. vs. Pranay Sethi and others, (2017)(16) Supreme Court Cases 680,** the Tribunal has erred in not granting the future prospects which, keeping the age of the deceased in mind, would be to the tune of 40%. Deduction, multiplier and income of the

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deceased, have rightly been assessed by the Tribunal. However, I find that some modification in the award is also required under the conventional heads as well as towards consortium in view of the judgments of the Hon'ble Supreme Court.

12. Keeping in view the law laid down by the Apex Court in the cases of Sarla Verma's case (supra), Magma General Insurance Company Limited's case (supra) and Pranay Sethi's case (supra), the appellants-claimants would, thus, be entitled to the following compensation:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹8000/-
2	Annual Income	₹8000x12 = ₹96000/-
3	Deduction 1/3 rd (₹32000/-)	₹64000/-
4	Future Prospects 40% (₹25600/-)	₹89600/- (64000+25600)
5	Multiplier '17'	₹1523200/- (89600x17)
6	Loss of Estate	₹15,000/-
7	Funeral Expenses	₹15,000/-
8	Spousal Consortium	₹40,000/-
9	Parental Consortium (1 child)	₹40,000/-
10	Filial Consortium to mother	₹40,000/-
10	Total Compensation	₹16,73,200/-

13. The amount of compensation awarded over and above the amount awarded by the Tribunal i.e. ₹3,73,200/- (16,73,200-13,00,000) shall carry interest @ 9% per annum from the date of filing of the claim petition till realization.

14. Out of the enhanced amount of ₹3,73,200/-, an amount of ₹1,00,000/- would go to appellant No.1-Shilpa, wife of the deceased;

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₹1,00,000/- to appellant No.2-Mila @ Meena, mother and ₹1,73,200/- to the minor child-appellant No.3. The said amount i.e. ₹1,73,200/- shall remain in FDR under the guardianship of the mother of the child i.e. Shilpa, till the minor child attains majority.

15. Accordingly, the present appeal is allowed and the award passed by the Tribunal is modified.

23.01.2020

Yogesh Sharma

**(ALKA SARIN)
JUDGE**

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**