IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1831-2002(O&M)

Date of Decision: October 11, 2022

Ajit Singh and others …Appellants

Versus

Narinder Kumar and anr. ...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Y.P. Singla, Advocate for the appellants.

Mr. Sandeep Suri, Advocate
for respondent No.2-Insurance Company.

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HARKESH MANUJA, J.

1. Present appeal lays challenge to an award dated 13.10.2001 passed by the learned Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'Tribunal'), whereby, a sum of Rs.3,84,000/- has been awarded as compensation in favour of appellants/claimants along with interest @ 9% per annum.

2. The brief facts which led to the filing of present appeal are that on 29.05.2000, Karam Singh (deceased) was driving tanker bearing No.CH-01-P-0292 from Panchkula to Ambala. At about 1:00 am, when he reached near village Ramgarh, a tourist bus bearing No.HP-01-1722 (offending vehicle) being driven by respondent No.2 therein in a rash and negligent manner and coming from the opposite side, hit against the tanker, which caused fatal injuries to Karam Singh who subsequently succumbed to the injuries suffered by him.

3. In the claim petition filed by the appellants/ claimants being dependents upon the deceased, learned Tribunal having held that the accident had occurred on account of rash and negligent driving of the offending vehicle, awarded compensation in the following manner:-

Sr.No.	Particulars	Amount(Rs.)
1.	Annual income of deceased(2500 x 12)	Rs. 30,000/-
2.	After deduction of 1/5th	Rs. 24000/-
3.	Multiplier of 16	Rs.3,84,000/-
	TOTAL COMPENSATION:	Rs. 3,84,000/-

4. Present appeal has been filed by the appellants/ claimants for enhancement of the compensation passed by the learned Tribunal.

5. Learned counsel for the appellants/ claimants contends that they have duly proved that the deceased was owner/ driver of the truck and contributing Rs.5000/- per month for the household expenses and, therefore, his income should have been taken at least as Rs.5000/- per month and learned Tribunal has committed an error while considering his income to be Rs.2500/- per month as driver of the truck only. He further contends that as the age of deceased at the time of death was 32 years, multiplier of 16 has been rightly applied and the number of dependents being 5, the deduction of 1/5th on account of personal expenses is also correct. He also contends that nothing has been awarded on account of future prospects and other conventional heads.

6. On the other hand, learned counsel for respondent no.2-Insurance Company contends that as the age of deceased was 38 years, at the time of accident, the multiplier of ‘15’ should have been applied. He further contends that as the number of dependents was ‘5’, deduction on account of personal expenses should have been 1/4th.

7. Having heard learned counsel for the parties and gone through the paper-book, I find force in the argument regarding income of the deceased raised, on behalf of learned counsel for the appellants/ claimants. As per the testimony of PW1-Smt.Lakhwinder Kaur, deceased

was earning Rs.5000/- per month and he was giving whole amount of his income for the expenses of his family. His income certificate issued by PW3-Kulbir Singh, (General Secretary of the National Transport Operation Union) was exhibited as Ex-P2 who also deposed that the deceased was owner of Truck No.CH-01-P-0292 and it was attached with the Union and he was saving Rs.5000/-per month after excluding all expenses. Therefore, in my view, though the learned Tribunal rightly held that deceased was earning Rs.5000/- per month; but committed an error while holding that half of the income may be taken as Driver and remaining half as the rent/fair of the Truck particularly when it was categorically deposed by both the above-mentioned witnesses that deceased was contributing Rs.5000/- per month for house hold expenses.

8. Though, learned Tribunal has not specifically given any reason for deducting Rs.2500/-per month from the income of the deceased, however, it appears that it has done so keeping in mind that the income on account of the rent/ fair of the Truck will still continue**.** Learned Tribunal deducted the income on account of rent/ fair of the Truck without specifying any reason that on what basis it has reached at the conclusion that this income will continue to accrue to the dependents specifically in the circumstances when the deceased himself was driving the Truck and it was because of this reason only that he was able to contribute the entire saving i.e. Rs.5000/- for the household expenses. Learned Tribunal has also not given any reasoning that in case dependents of the deceased are required to hire a driver whether they will be able to save that much amount for the household expenses, therefore, in the facts and circumstances of the present case, compensation was required to be assessed by taking monthly income of the deceased to be Rs.5000/- per month .

9. With respect to the multiplier, as the age of the deceased at the time of death was 38 years as proved by the post-mortem report, in view of **Smt. *Sarla Verma* and Others Versus Delhi Transport Corporation and Another,** reported as 2009(3) R.C.R (Civil) 77, and **"National Insurance Company Ltd. Vs. Pranay Sethi and others"**, 2017(4) RCR (Civil) 1009, it cannot be denied that the multiplier of 15 should have been applied instead of 16 and future prospects should have been awarded @ 30% of annual income. Further, in the facts of the present case when the deceased had to support old parents, wife and two minor children aged 11 & 8 years respectively whose educational and medical expenses are surely going to increase with the passage of time, deduction of 1/5thonaccount of personnel expenses is not being interfered with particularly in the absence of any evidence about any personal beguiling fascinations of the deceased such as liquor or smoking etc. Apart from that deduction of 1/5th only is also corroborated from the fact that Rs.5000/- was not the income of deceased; rather it was his contribution for the family expenses. Besides this, with respect to the compensation awarded under the other conventional heads, applying the principle of law laid down by Hon'ble Supreme Court in **Pranay Sethi's** case (supra), the claimants are entitled for Rs.16,500/- as compensation under the head of funeral expenses, loss of consortium (parental, spousal and filial) is to be awarded to the tune of Rs.44,000/- x 5 (Rs.2,20,000/-) and Rs.16,500/- towards loss of estate .

10. In view of what has been stated hereinabove, the appellants/ claimants shall be entitled for the grant of following compensation:-

Sr.No.	***Nature***	***Amount in Rupees***
1.	*Annual Income of deceased*	*Rs.60,000/-*

	(Rs.5,000x 12)	
2.	*Add 30% of Future prospects*	*Rs.18,000/-*
3	*Total Income*	*Rs.78,000/-*
4.	*Deduction1/5th*	*Rs.15,600/-*
5.	*Multiplier of 16 (Rs.62,400 /- x 16)*	*Rs.9,98,400/-*
7.	*Funeral Expenses*	*Rs.16,500/-*
8.	*Loss of Consortium (Rs.44000x5)*	*Rs.2,20,000/-*
9.	*Loss of Estate*	*Rs.16,500/-*
	Total Compensation	*Rs.12,51,000/-*
	Amount Awarded by the Tribunal	*Rs.3,84,000-*
	Enhanced Amount	*Rs.8,67,000/-*

11. As far as grant of interest @ 9% per annum is concerned, in my view, it does not require any interference as per the observations made by the Hon'ble Supreme Court in **"Smt. Supe Dei and others Vs. National Insurance Company Limited and others"**,(2009) (4) SCC 513, approved in a subsequent judgment titled as **"Puttamma and others Vs. K.L. Narayana Reddy and another"**, 2014 (1) RCR (Civil) 443.

12. Consequently, the present appeal is disposed off in the manner, indicated hereinabove.

13. All pending applications if any stand disposed of accordingly.

October 11, 2022 **(HARKESH MANUJA)**
sanjay **JUDGE**

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No