IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

304

FAO-2107-2019
Date of decision: 27.10.2022

Reeta and others .....Appellants

Versus

Balkar Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajiv Kumar Saini, Advocate
for the appellants.

Service upon respondent No.1 dispensed with.

None for respondent No.2.

Mr. Radhe Shyam Sharma, Advocate
for respondent No.3-insurance company.

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<u>MANJARI NEHRU KAUL, J. (ORAL)</u>

This is claimants' appeal against the award dated 14.11.2018 passed by learned Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide which the following compensation was awarded to them on account of death of Anil Kumar (hereinafter referred to as 'the deceased') in a Motor Vehicular Accident which took place on 16.04.2017 when canter bearing registration No.HR-45B-2414 (hereinafter referred to as 'the offending vehicle') collided with the motorcycle of the deceased:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.8,280/-
2.	Annual Income	Rs.99,360/-
3.	Future Prospects (40%)	Rs.39,744/-
4.	Total Annual Income	Rs.1,39,104/-
5.	Deduction towards personal expenses ($1/4^{th}$)	Rs.34,776/-

6.	Annual loss of income to the claimants	Rs.1,04,328/-
7.	Compensation after applying multiplier of '16'	Rs.16,69,248/-
8.	Loss of Consortium	Rs.40,000/-
9.	Loss of Estate	Rs.15,000/-
10.	Funeral expenses	Rs.15,000/-
	Total Compensation	Rs.17,39,248/-

Learned counsel for the appellants, while inviting the attention of this Court to the compensation awarded, submits that the compensation required to be enhanced as compensation awarded under the conventional heads was not in consonance with the settled law. Learned counsel submits that the deceased had been earning Rs.25,000/- per month as a carpenter and the Tribunal had erroneously assessed his income as Rs.8,280/-. Learned counsel further submits that no compensation had been awarded to the claimants/appellants No.2 to 4 (minor children of the deceased) and appellant No.5 and proforma respondent No.4 (parents of the deceased) for loss of parental and filial consortium respectively.

Learned counsel appearing for respondent No.3-insurance company, while opposing the prayer and submissions made by the counsel opposite, submits that the claimants have been adequately compensated by the Tribunal vide the impugned award and thus no interference is warranted. He prays for dismissal of the instant appeal.

I have heard learned counsel for the parties and perused the relevant material on record.

This Court does not find any merit in the submissions of the learned counsel for the claimants that the Tribunal had erred in assessing the monthly income of the deceased. Since no evidence has been led by the claimants qua the income of the deceased, therefore, the Tribunal has rightly assessed the income of the deceased as per minimum wages notified by the Haryana Government for the relevant period.

This Court, however, concurs with the submissions made by the counsel for the claimants that the Tribunal erred in not awarding any compensation towards loss of filial as well as parental consortium to the claimants/appellants as per the law laid down in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270***. The claimants/appellants No.2 to 4 (minor children of the deceased) and appellant No.5 and proforma respondent No.4 (parents of the deceased) would, therefore, be entitled to Rs.40,000/- each towards loss of parental and filial consortium. Still further, it has been held by the Hon'ble Supreme Court that the sum of Rs.15,000/- each for loss of estate and funeral expenses in addition to Rs.40,000/- each for loss of consortium would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10% enhancement *qua* the above-mentioned conventional heads as per the ratio laid down in ***Pranay Sethi's case*** *(supra)*. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate and funeral expenses. Besides this, the claimants including claimants/appellants No.2 to 4 (minor children of the deceased) and appellant No.5 and proforma respondent No.4 (parents of the deceased), are also entitled to Rs.44,000/- each, for loss of parental and filial consortium respectively.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.8,280/-
2.	Annual Income	Rs.8,280/- x 12 = Rs.99,360/-
3.	Future prospects (40%)	Rs.99,360/- x 40% = Rs.39,744/-
4.	Total annual income	Rs.99,360/- + Rs.39,744/- = Rs.1,39,104/-
5.	Deductions towards personal expenses (1/4th)	Rs.1,39,104/- (/) 4 = Rs.34,776/-
6.	Loss of annual future earnings	Rs.1,39,104/- (-) Rs.34,776/- = Rs.1,04,328/-
7.	Multiplier	16
8.	Loss of future earnings	Rs.1,04,328/- x 16 = Rs.16,69,248/-
9.	Loss of consortium	Rs.44,000/- x 6 = Rs.2,64,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/
	Total compensation	Rs.19,66,248/- (rounded off to Rs.19,66,250/-)

The claimants are, therefore, held entitled to a total sum of Rs.19,66,250/- as compensation out of which proforma respondent No.4 shall be only entitled to Rs.44,000/- (filial consortium) along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondents and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, the present appeal stands disposed of in the above terms.

27.10.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No