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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3353 of 2002
Date of decision : 05.04.2022

Krishna Goel and others

....Appellants

Versus

Kanwar Pal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Dhruv Singh, Advocate
for the appellants.

Mr. Rajesh Arora, Advocate
for respondents No.1 and 2.

Mr. Neeraj Khanna, Advocate
for respondent No.3-Insurance Company.

PANKAJ JAIN, J. (ORAL)

Claimants are in appeal seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal') on account of death of Sehdev Kumar Goel, aged 39 years in a vehicular accident.

2. Claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 by the Claimants. It was pleaded that on 24th April, 2000 at about 12.30 PM, Sehdev Kumar Goel, Advocate, was coming in Car No. HR-26-F-0342 from Rewari to Gurgaon along with ASI Dharamdev and Vipin Kumar. The car was driven at a slow speed. When

they reached near Brahamkumari Ashram near village Manesar, a Jeep bearing registration No.HR-47-6118 came from the front side driven in a rash and negligent manner by respondent No.1 on the wrong side hit against the Maruti car. On account of the accident, Sehdev Kumar Goel received serious injuries. ASI Dharamdev also received injuries. Sehdev Kumar Goel was moved to the hospital but he died on the way. A case vide FIR No.91 dated 24th April, 2000 was registered under Sections 279/304-A/337 of the Indian Penal Code with Police Station Bilaspur. Deceased was stated to be an upcoming lawyer. Rs.10,000/- stated to have been spent on last rites. Tribunal framed the following issues :-

> *"1. Whether the death of Sehdev Kumar Goel, Adv. was caused due to rash and negligent driving of vehicle no.HR-47-6118 driven by Kanwarpal respondent no.1? OPP*
>
> *2. If issue no.1 is proved, to what amount the petitioners are entitled and from which of the respondents? OPP*
>
> *3. Whether respondent no.1 namely Kanwar Pal (driver) was not holding a valid driving licence on the date of accident. If so to what effect? OPR(3)*
>
> *4. Relief."*

3. None of the respondents has preferred any appeal or cross-objections. The scope of the present appeal thus relates to compensation payable to the claimants i.e., Issue No.2.

4. Ld. Counsel for the appellants argued that the Tribunal fell in

error in computing the compensation on the basis of net average income instead of gross income proved on record apart from denying benefit under the conventional heads. He places reliance on **'National Insurance Company Limited vs. Pranay Sethi and others', (2017) 16 SCC 680**.

5. Per contra, Ld. Counsel appearing for respondent No.3-United India Insurance Company has argued that compensation paid to the claimants is on higher side as multiplier of 16 has been applied while calculating compensation whereas as per law laid down by Apex Court in case of **'Smt. Sarla Verma & others vs. Delhi Transport Corporation & another' (2009) 6 SCC 121**, the deceased being 40 years of age, multiplier of 15 would be applicable.

6. I have heard Ld. Counsel for the parties and have carefully gone through the record of the case.

7. The date of accident is 24th of April, 2000, thus, to ascertain income of the deceased, Income Tax Returns of the Assessment Year 1999-2000 will be the relevant piece of evidence.

8. It has been proved on record that the deceased was an Income Tax Assessee. Income Tax Returns for the Assessment Years 1998-99 and 1999-2000 have been proved on record, as per which, the deceased had gross annual income of Rs.1,24,750/- and Rs.1,26,500/-, respectively.

9. As per Income Tax Return for the Assessment Year 1999-2000, deceased paid Income Tax of Rs.890/-. The statutory deduction of Income

Tax is required to be made from the gross annual income of Rs.1,26,500/- as returned by the deceased. Reference in this regard can be made to the observations noted in **Sarla Verma's case (supra)**. After deduction of Income Tax net income of the deceased comes to Rs.1,25,610/-. As per settled law, the claimants are entitled for future prospects on the basis of income of the deceased.

10. In view of the age of deceased and observations made by Apex Court in **Pranay Sethi's case (supra)**, addition of 25% of income is required to be made in the income of the deceased towards the future prospects. On doing so, income of the deceased shall be Rs.1,25,610+ Rs.31,402.5 = Rs.1,57,013/-. Further, as per **Sarla Verma's case (supra)** considering the number of the claimants on the deceased, deduction of 1/4th of income of the deceased is to be made. It comes to Rs.1,57,013 – Rs.39253.25 = Rs.1,17,760/-. Keeping in view the age of the deceased i.e. 40 years, multiplier of 15 will be applicable. Compensation payable for loss of dependency comes to Rs.1,17,760X15 = Rs.17,66,400/-. The Tribunal has awarded funeral expenses of Rs.9000/- which are reasonable and do not warrant any enhancement. Nothing has been awarded under the heads of loss of estate and loss of consortium. The claimants shall also be entitled for a sum of Rs.15000/- for loss of estate and Rs.40,000/- for loss of consortium.

11. In view of above discussion, compensation payable to the

claimants on account of death of Sehdev Kumar Goel, comes to be :

Sr. No.	**Head**	**Compensation**
1	Loss of dependency	Rs.17,66,400/-
2	Funeral expenses	Rs.9,000/-
3	Compensation payable for loss of spousal, parental and final consortium	Rs.40,000/-
4	Loss of estate	Rs.15,000/-
	Total Compensation	**Rs.18,30,400/-**

12. In the present case, the Tribunal awarded interest @ 9% per annum from the date of filing of the petition till realization. No challenge has been made to the aforesaid award by the Insurance Company.

13. Consequently, keeping in view the above discussion, the Claimants are held entitled to payment of compensation of Rs.18,30,400/- and interest @ 9% per annum thereupon, from the date of filing of the petition till realization, from respondents No.1 to 3 jointly and severally.

14. The appeal is allowed. The award passed by the Tribunal stands modified to the aforesaid extent. Any amount already paid shall be set off.

15. Ordered accordingly.

April 05, 2022 **(PANKAJ JAIN)**
Dpr **JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No