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

FAO-5241-2009 (O&M)
Decided on : 23.05.2022

Kanta Devi and others ...... Appellants

Versus

Kuldeep Singh and others ...... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jasbir Mor, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate
for respondent No.4.

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Manjari Nehru Kaul, J.(Oral)

Learned counsel for respondent No.4 has filed the legible copy of the award passed by Motor Accident Claims Tribunal, Jind in Court today, which is taken on record subject to all just exceptions.

The appellants-claimants by way of instant appeal are impugning the award dated 25.04.2009 passed by Motor Accidents Claims Tribunal, Jind (hereinafter called as 'the Tribunal') passed in the claim petition under Section 166 of Motor Vehicles Act filed by claimants whereby following compensation was assessed and awarded to the claimants on account of death of Suresh Kumar in the road accident, which took place on 17.12.2006:-

Sr. No.	***Head***	***Amount***
1	Monthly income	Rs.3,000/-
2	Annual income 12 x Rs.3,000/-	Rs.36,000/-
3	Deduction towards personal expenses (1/3)	Rs.12,000/-
4	Annual dependency (Rs.3,000-Rs.1,000) x 12	Rs.24,000/-
5	Multiplier	15
6	Loss of annual future income	Rs.3,60,000/-

Sr. No.	***Head***	***Amount***
7	Funeral expenses	Rs.2,000/-
8	Loss of estate	Rs.2,500/-
9	Loss of consortium	Rs.5,000/-
10	Total compensation	Rs.3,69,500/-

The amount of compensation along with interest @ 7.5% p.a. was ordered to be paid by the respondents jointly and severally. 50% of the total compensation amount was ordered to be deposited in a nationalized bank in an interest bearing scheme for five years and remaining 50% was to be paid to claimant No.1.

Brief facts of the case as pleaded in the claim petition may be noticed as thus; on 17.12.2006 when Suresh Kumar (hereinafter referred to as 'deceased') along with his cousin Shamsher Singh was returning after selling sugar cane at Sugar Mill, Patran (Pb.) on their tractor trolley at about 10-10.30 pm, the truck bearing registration No.HR-55-3663 (hereinafter referred to as 'the offending vehicle') came rashly and negligently driven by respondent No.1-Kuldeep Singh,and collided with the tractor trolley. The deceased, who was driving the tractor trolley received multiple injuries, as a result of which, he died on the spot. FIR No.272 dated 20.12.2006 under Sections 279 and 304-A IPC was lodged against the driver of the offending vehicle. The deceased was stated to be more than 40 years of age on the date of accident and was earning Rs.20,000/- per month. The claimants claimed that the deceased was an agriculturist and also into dairy farming. Hence, they were entitled to Rs.20 lacs as compensation.

Learned counsel for the appellant-claimants has primarily impugned the award passed by the Tribunal on the issue of inadequate compensation having been given. He submits that the Tribunal has erred in assessing the income of the deceased as only Rs.3,000/- per month even though he was an agriculturist and earning substantial amount of money from dairy farming. It has further been submitted that since the deceased had left behind a widow and three minor children, the deduction qua personal expenses should have been 1/4th, which was erroneously not considered by the Tribunal while passing the impugned award. He further submits that even under the other conventional heads, the amount of compensation given was inadequate and not in consonance with the settled law in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333*** and ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270.***

On the other hand, learned counsel for the insurance company has opposed the prayer and submissions made by counsel opposite. He submits that since there was no evidence led qua the income of the deceased by the claimants, hence, the Tribunal rightly assessed the monthly income of the deceased at Rs.3,000/- per month on the basis of prevailing minimum wages in respect of labourer for the relevant year. He further submits that even qua the other conventional heads, the Tribunal had granted adequate compensation, which did not warrant any interference. Learned counsel for the insurance company, however, was not able to controvert that the deceased was stated to be 40 years of age on the date of accident and would be entitled for future prospects @ 25 % as per settled law.

Heard learned counsel and perused the relevant material available on record.

This Court does not find any reason to interfere with the monthly income, which has been assessed at Rs.3,000/- per month by the Tribunal. No cogent much less convincing evidence in the said regard was produced by the claimants. However, this Court feels that since deceased was 40 years of age and hence, as per the settled law and as conceded by the counsel for the insurance company, the claimants would be entitled to 25% of compensation with respect to future prospects. Still further, since the deceased left behind four claimants i.e. widow and three minor children, deduction with respect to the personal expenses shall also have to be made to the extent of 1/4th. This Court also holds that the claimants would be entitled to compensation for loss of spousal and parental consortium as per settled law. In ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*** Hon'ble Supreme Court has quantified the amount in the sum of Rs. 15,000/- each for loss of estate and funeral expenses each in addition to Rs. 40,000/- each for loss of parental and filial consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts 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 was also re-assessed by the Hon'ble Supreme Court ***in Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344 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 & funeral expenses. Besides this, the appellants, who are widow and minor children of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium respectively.

Resultantly, the compensation awarded by the Tribunal is reassessed as follows:-

Sr. No.	*Head*	*Amount*
1	Monthly income	Rs.3,000/-
2	Annual income 12 x 3,000/-	Rs.36,000/-
3	Future prospects (25%)	Rs.9,000/-
4	Total income	Rs.45,000/-
5	Deduction towards personal expenses (1/4)	Rs.11,250/-
6	Annual dependency (Rs.45000-Rs.11250)	Rs.33,750/-
7	Multiplier	15
8	Loss of annual future earning	Rs.5,06,250/-
9	Funeral expenses	Rs.16,500/-
10	Loss of spousal, parental and filial consortium respectively (Rs.44,000 x 4)	Rs.1,76,000/-
11	Loss of estate	Rs.16,500/-
12	Total compensation	Rs.7,15,250/- (rounded off to Rs.7,15,500/-)

The appellants-claimants are, therefore, entitled to a total compensation of Rs.7,15,500/- along with interest at the rate of 8% per annum from the date of filing of the claim petition till its actual realization in the same ratio as ordered by the learned Tribunal vide award dated 25.04.2009.

With the above modifications, the instant appeal stands disposed of.

23.05.2022 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

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