IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No.2402 of 2010 (O&M)
Date of Decision: 23.12.2022

Bimla Devi and others

……Appellants

Versus

Ravi Mohammad and others

……Respondents

***BEFORE*: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

*****

Present:- Mr. P.K. Ganga, Advocate
for the appellants.

Service of notice upon respondents No.1 and 2 dispensed with vide order dated 18.11.2022.

Mr. Shubham Gupta, Advocate appearing for
Mr. D.P. Gupta, Advocate
for respondent No.3-Insurance Company.

MEENAKSHI I. MEHTA, J.

Feeling aggrieved and dis-satisfied with the Award passed by learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal') on 23.09.2009, whereby the appellants-claimants (here-in-after to be referred as 'the claimants') have been awarded compensation to the tune of Rs.2,50,000/- along-with interest @ 7.5% per annum from the date of filing of the claim petition till its realization, on account of the death of Pawan Kumar, i.e the son of claimants No.1 and 2 and brother of claimants No.3 to 5, in a motor vehicular accident, they (claimants) have preferred the instant appeal for seeking the enhancement of the amount of compensation.

2. As per the brief factual-matrix culminating in the filing of the present appeal, the claimants filed a petition against the respondents, who are the respective driver, owner and insurer of the Car bearing registration No.DL-9CJ-0249 (for short 'the offending vehicle') for claiming a sum of Rs.10 (ten) lac from them, while averring that on 09.04.2008, said Pawan Kumar was going from Village Rattanpura towards Village Chautala, on foot and he was keeping to the correct side on the road. In the meantime, the offending vehicle, which was being driven by respondent No.1 in a rash and negligent manner at a very high speed, came there from Sangria side and it knocked him down and he sustained fatal injuries in this accident and succumbed to the same instantaneously.

3. Respondents No.1 and 2 filed their joint written-statement whereas respondent No.3-insurance Company filed its separate written statement, contesting the claim as put-forth by the claimants in their petition, on several grounds. Then, the issues were framed on 18.09.2008. After appreciating and evaluating the evidence as led by the parties on the record and hearing their counsel, the Tribunal allowed the claim petition vide the impugned Award and granted the compensation to the claimants, as already indicated in the opening para of this judgment and fastened the joint as well as several liability upon the respondents to pay the same.

4. It is worth-while to mention here that the service of notice upon respondent No.1-driver and respondent No.2-owner, has already been dispensed with by this Court vide the order dated 18.11.2022.

5. I have heard learned counsel for the appellants-claimants as

well as learned counsel for respondent No.3-Insurance Company in this appeal and have also perused the file carefully.

6. Learned counsel for the claimants has contended that the Tribunal fell in error in assessing the monthly income of the deceased as Rs.2,200/-, by ignoring the fact that even the rate of the minimum wages, as notified by the State Government to be payable to an unskilled worker, as prevalent at the time of the said accident, was Rs.3,586/- per month, i.e much higher than the afore-assessed income and moreover, the Tribunal has not awarded any compensation towards the future prospects, loss of estate and loss of consortium and even the amount awarded for the funeral expenses, is also inadequate and in these circumstances, the claimants are entitled to the enhancement of the amount of compensation, as awarded to them by the Tribunal, accordingly.

7. Per contra, learned counsel for respondent No.3-Insurance Company has argued that the claimants have already been granted more than sufficient compensation by the Tribunal and hence, they are not entitled for any further enhancement in the amount of compensation.

8. It goes undisputed between the parties that on the day of the accident in question, the prevalent rate of minimum wages, as notified by the Government of Haryana to be payable to an unskilled worker/labourer, was Rs.3586/- per month. Concededly, the deceased was a young boy aged about 21 years, meaning thereby that he was quite capable of earning income at least by working as a labourer. In such circumstances, it is explicit that the assessment of his income by the Tribunal as Rs.2200/- per

month cannot be considered to be justified at all and therefore, the monthly income of the deceased is assessed as Rs.3586/-.

9. In view of the observations made by the Constitution Bench of the Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009***, an amount equivalent to 40% of the above-assessed income of the deceased is to be added therein towards the future prospects and when so added, his monthly income comes out to be Rs.5020.40Ps (rounded off as Rs.5020/-). Admittedly, the deceased was a bachelor at the time of his death and it being so, 50% of his afore-said income is to be deducted on the score of his personal expenses, leaving the remaining half of the same to be counted towards the dependency of the claimants and the annual dependency of the claimants, when so calculated, would be (Rs.2510x12)=Rs.30,120/-. In view of the above-mentioned age of the deceased at the time of the said accident, the application of the multiplier of '18' would be appropriate to arrive at the amount of compensation as payable to the claimants and when so applied, the said amount, would be (Rs.30,120x18)=Rs.5,42,160/-.

10. Besides the afore-calculated amount, the claimants shall be entitled to the sum of Rs.16,500/- towards the funeral expenses and another amount of Rs.16,500/- for the loss of estate and to add to it, claimants No.1 and 2, being the parents of the deceased, are also awarded a sum of Rs.44,000/- each towards the loss of filial consortium.

11. In view of the above-discussed facts and circumstances, the amount of enhanced compensation is worked out as under:-

Head	**Compensation awarded by the Tribunal**	**Compensation awarded by this Court**	**Enhancement**
Loss of Dependency.	Rs.2,37,600/- (13,200x18)	Rs.5,42,160/- (30,120x18)	3,04,560/-
Expenses of transportation and cremation (Funeral expenses)	Rs.12,400/-	Rs.16,500/-	Rs.4,100/-
Loss of Estate	Nil	Rs.16,500/-	Rs.16,500/-
Towards filial consortium to claimants No.1&2 (parents)	Nil	Rs.88,000/- @ Rs.44,000/- each	Rs.88,000/-
Total enhancement			**Rs.4,13,160/-**

12. As a sequel to the foregoing discussion, the appeal in hand is allowed to the effect that the claimants are entitled to the net enhanced compensation to the tune of **Rs.4,13,160/-,** over and above the amount of Rs.2,50,000/-, as already awarded to them by the Tribunal and the said enhanced amount shall carry the interest @ 7.5% per annum and except the amount as exclusively payable to claimants No.1 and 2 towards the filial consortium, the remaining enhanced amount would be payable to the claimants in the same terms as mentioned in the impugned Award.

(MEENAKSHI I. MEHTA)
JUDGE

December 23, 2022
pooja

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*