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

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1. FAO No. 2528 of 2011 (O & M)
Date of decision : 1.9.2022

M/s TATA AIG General Insurance Co. Limited ……Appellant

Vs.

Satya Narain and others ……Respondents

2. FAO No. 4179 of 2011 (O & M)

Satya Narain and another ……Appellants

Vs.

Ravinder and others ……Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Rajneesh Malhotra, Advocate, for the appellant/Insurance co.
(for the respondent No.3 in FAO No. 4179 of 2011)

Mr. Harish Nain, Advocate, for respondents No.1 and 2
(for the appellant in FAO No. 4179 of 2011)

TRIBHUVAN DAHIYA, J. (Oral)

1. These two appeals, one filed by the appellant/Insurance company and the other by the appellant/claimants, are decided by this order against the award dated 24.1.2011 passed by the Motor Accident Claims Tribunal (Ad hoc) FTC, Sonepat (in short 'the Tribunal').

2. Deceased Sonu met with an accident on 24.4.2010 while he was going on foot on Kharkhoda-Gohana Road near bus stand, village Bhainswal Kalan. The offending vehicle, i.e., Mahindra Tractor along with its loaded trolley driven by respondent No.3 rashly and negligently hit the deceased, resulting in his death. The Tribunal has held the accident to have occurred on ac-

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count of rash and negligent driving of respondent No.3/driver. The deceased is held to be 17½ years of age; his notional income has been assessed as Rs.3000/- per month. By applying multiplier of '12', an amount of Rs.4,32,000/- was awarded as compensation for loss of income, after deducting 1/3rd of the amount on account of personal expenses. Rs.8,000/- was awarded towards miscellaneous expenses, and Rs.10,000/-towards mental shock, agony, love and affection. In all, total amount of Rs.4,50,000/-was awarded as compensation with interest at the rate of 6% per annum.

3. Learned counsel for the appellant/Insurance company has argued that the factum of the accident in question having occurred could not be established on record, and, therefore, Insurance company was not liable. *Per contra*, learned counsel for the respondents/claimants submits that the claimants are entitled to enhanced compensation as the compensation awarded is on a lower side.

5. Learned counsel for the parties have been heard.

6. A perusal of the award passed by the Tribunal establishes that immediately after the accident, the deceased was taken to hospital-PGIMS, Rohtak, where he died. Postmortem on the dead body was conducted on 25.4.2010, and FIR No. 68 dated 24.4.2010 under Sections 279/304A IPC was registered at Police Station Sadar, Gohana (Ex.P-2). The registration number of the tractor was disclosed to the police by the eye-witness Sanjay, PW-2, who was going on foot with the deceased at the time of accident. Besides, respondent No.3/driver did not appear in the witness box to substantiate his allegations that the deceased himself was at fault. In these circumstances, no fault can be found with the Tribunal's findings holding that the accident in question has been caused on account of rash and negligent driving by respondent No.3 while driving the tractor-trolley bearing registration No. HR-10-N-717 insured

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by the appellant/Insurance company.

7. A perusal of the award passed by the Tribunal, however, shows that the compensation assessed therein is not in accordance with law and the same needs to be modified, as the deduction of 1/3rd for personal expenses out of the income of the deceased is not appropriate. The compensation awarded towards miscellaneous expenses has also no basis.

8. As per law laid down by the Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others;*** **2017 (4) RCR (Civil) 1009**, while assessing compensation in death cases, the Court is to be guided by the concept of "just" compensation to be determined on the foundation of fairness, reasonableness and equity on acceptable legal standards because such determination can never be in arithmetical exactitude.

9. The deceased, who was 17½ years of age at the time of accident on 24.4.2010, his notional income has been assessed as Rs.3000/-per month. By applying the multiplier of '15' as per judgment of the Supreme Court in ***Sarla Verma vs. Delhi Transport Corporation,*** **(2009) 6 SCC 121,** the compensation for loss of income to the claimants is assessed as Rs.5,40,000/- (3000 x12x15).

10. Besides, on the assessed notional income also the respondents/ claimants are entitled to enhancement of compensation on account of future prospects as laid down by the Supreme Court in ***Kirti and another etc. v. Oriental Insurance Company Limited,*** **2021 (2) SCC 166,** and ***Pranay Sethi case*** *(supra)*. Since age of the deceased has been assessed 17½ years at the time of accident, he is held entitled to an addition of 40% of the established income on account of future prospects (5,40,000 + 2,16,000 = 7,56,000).

As per law laid down in ***Sarla Verma case*** (*supra*), since the deceased was bachelor, a deduction of one half (½) out of the assessed income has to be effected towards personal and living expenses for assessment of

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compensation (7,56,000/2 = 3,78,000).

11. Further, the Supreme Court in ***Pranay Sethi* case** *(supra)* has held that reasonable figures under the conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% every three years. Accordingly, the respondent/claimants would be entitled to 10% enhancement with respect to compensation under the conventional heads; with 10% increase the amount under the conventional heads comes to Rs.16,500/-, Rs.88,000/- and Rs.16,500/- respectively.

12. On the aforesaid analysis, the claimants are held entitled to the following revised amount of compensation:

Sr. No.	Head	Amount Deceased
1	Monthly Income	3000 x 12
2	Annual Income	36000
3	Multiplier	15 (36,000 x 15 = 5,40,000)
3	Future Prospects	40% of 5,40,000 = 2,16,000
4	Total Income including future prospects	7,56,000
5	One half Deduction towards personal expenses	7,56,000/2 = 3,78,000
	Loss of Estate	16,500 (includes 10% increase after every 3 years)
7	Loss of consortium	88,000 (includes 10% increase after every 3 years)
8	Funeral Expenses	16,500 (includes 10% increase after every 3 years)
9	**Total compensation**	**4,99,000/-**

13. The award passed by the Tribunal dated 24.1.2011, therefore, stands modified as aforesaid, and the claimants (appellants in FAO No. 4179 of 2011) are held entitled to an enhanced amount of 49,000/- with interest at the rate of 6% from the date of filing the claim petition till its actual realization, which shall be jointly and severally paid in the same ratio as directed by the Tribunal.

14. Resultantly, appeal filed by the Insurance company is hereby

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dismissed and the appeal filed by the claimants is allowed in terms aforesaid.

15. All the pending miscellaneous applications, if any, stand disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

1.9.2022
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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No

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