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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-5312-2006 (O&M)
Decided on : 20.07.2022

Smt. Padma Devi and others
. . . Appellants

Versus

State of Haryana and others
. . . Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mohit Giri, Advocate
for the appellants.

Mr. Vipul Sharma, Advocate
for Mr. R.N. Singal, Advocate
for respondent No.3-National Insurance Company Limited.

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MANJARI NEHRU KAUL, J.

C.M No.2318-CII-2021

This is an application for fixing some actual date in the main appeal.

For the reasons stated in the application, the same is allowed as prayed for. The main appeal is taken up on Board today itself.

FAO-5312-2006

The claimant-appellants are the widow and three sons of deceased Gurdial Singh, who died in a motor vehicular accident on 04.06.2003, while he was on duty as a Conductor in Haryana Roadways bus, which was going from Kaithal to Katra. In the claim petition filed under Section 166 of the Motor Vehicles Act, the following compensation was awarded to the claimants :

Sr. No.	Head	Amount
1	Monthly income	Rs.5,628/-
2	Annual income (Rs.5,628 x 12)	Rs.67,536/-
3	Deduction towards personal expenses	Rs.22,512/-
4	Dependency	Rs.45,000/-
5	Multiplier	12
6	Total amount (Rs.45,000/- x 12)	Rs.5,40,000/-
7	Transportation and Funeral expenses	Rs.10,000/-
	Total compensation	Rs.5,50,000/-

Learned counsel for the appellants submits that the deceased was 48 years of age on the date of accident and was drawing a gross salary of Rs.9,258/-. However, the tribunal erred in considering only his net salary at the time of assessing his income and also deducting 1/3rd of his income towards personal expenses. It was further submitted that a wrong multiplier of `12' had been applied by the tribunal, which also requires to be modified to `13'.

Learned counsel for respondent No.3-Insurance Company, while opposing the prayer and submissions made by the counsel opposite, has not been able to controvert that the compensation awarded by the tribunal was contrary to the ratio of law as laid down in ***Sarla Verma & Ors. vs. Delhi Transport Corporation &Anr., (2009) 6 SCC 121, National Insurance Co. vs. Pranay Sethi : (2017) SCC 270*** and ***Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333*** and thus, required to be reassessed and modified.

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

As per the settled law, only deduction towards income tax can be made while computing the monthly salary of the deceased, therefore, the

Tribunal erred in taking the net salary of the deceased as Rs.5,628/-.

Since, the deceased was a government employee working with Haryana Roadways and was 48 years of age on the date of accident, the claimants would stand entitled to 30% towards future prospects. Still further, the correct multiplier, in the case in hand, would be `13' and not `12', which has been erroneously applied. Since, the claimants who are widow and minor children of the deceased were dependent on the deceased, deductions towards personal expenses shall have to be made to the extent of 1/4th.

The Hon'ble Supreme Court in ***Pranay Sethi's case (supra)*** has quantified the amount in the sum of Rs.15,000/- each for loss of estate and funeral expenses in addition to Rs.40,000/- for loss of consortium. Still further, it has also been held that the aforesaid amount would be further subject to 10% enhancement after every three years. Therefore, the appellants would be entitled to 10% enhancement with respect to the compensation under the aforementioned conventional heads. Hence, the amount of compensation for loss of estate and funeral expenses stands modified to Rs.16,500/- each. In the present case, the widow and three children of the deceased would also be entitled to loss of spousal and parental consortium respectively in the sum of Rs.44,000/- each.

The compensation is reassessed and modified as follows :-

Sr. No.	**Head**	**Amount**
1	Monthly income	Rs.9,258/-
2	Annual Income	Rs.9,258/- x 12 = Rs.1,11,096/-
3	Income Tax	Rs.12,240/-
4	Annual Income minus income tax	Rs.1,11,096/- - Rs.12,240/- = Rs.98,856/-

Sr. No.	**Head**	**Amount**
5	Future prospects 30%	Rs.29,656/-
6	Total annual income including future prospects	Rs.98,856/- + Rs.29,656/- = Rs.1,28,512/-
7	Deduction towards personal expenses (1/4th)	Rs.32,128/-
8	Annual dependency	Rs.1,28,512/- - Rs.32,128/- = Rs.96,384/-
9	Multiplier	13
10	Loss of annual future earnings	Rs.12,52,992/-
11	Loss of consortium (spousal and parental)	Rs.44,000 x 4 = Rs.1,76,000/-
12	Funeral expenses	Rs.16,500/-
13	Loss of estate	Rs.16,500/-
	Total compensation	Rs.14,61,992/- (rounded off to Rs.14,62,000/-)

In the circumstances, the appellants-claimants are entitled to afore-detailed compensation of Rs.14,62,000/- 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 directed by the learned Tribunal.

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

(MANJARI NEHRU KAUL)
JUDGE

July 20, 2022
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No