

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

313

FAO-5864-2019

Date of decision: 06.12.2022

Suman Devi and others

.....Appellants

Versus

Juber Alam and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. B.K. Bagri, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.2-insurance company.

MANJARI NEHRU KAUL, J. (ORAL)

The claimants are in appeal to impugn the award dated 17.12.2018 passed by learned Motor Accidents Claims Tribunal, Rewari (for short, 'the Tribunal') wherein the following compensation was awarded to them on account of death of Anirudh, aged 50 years (hereinafter referred to as 'the deceased'), in a motor vehicular accident which took place on 29.02.2016:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.13,716/-
2.	Add 10% for loss of future income	Rs.1,371/-
3.	Total income	Rs.15,087/-
4.	Dependency after deducting 1/4 th towards personal expenses	Rs.11,316/-
5.	Net loss of annual income	Rs.1,35,792/-
6.	Total loss of dependency after applying multiplier of '11'	Rs.14,93,712/-
7.	Loss of consortium to claimant No.1	Rs.40,000/-
8.	Funeral expenses	Rs.15,000/-
9.	Loss of estate	Rs.15,000/-
	Total Compensation	Rs.15,63,712/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 9% per annum, from the date of filing of the claim petition till realization.

Learned counsel appearing for the appellants has vehemently argued that the compensation awarded vide the impugned award is inadequate and not in consonance with the settled ratio of law as laid down in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270***. Learned counsel has submitted that it was duly proved before the Tribunal by way of cogent evidence that the deceased, aged 52 years, was a salaried person and hence the Tribunal gravely erred in just awarding 10% towards future prospects instead of 15%. It was still further submitted that even under the conventional heads, the compensation awarded was meagre inasmuch as no compensation had been awarded to the claimants 2 to 5 qua loss of parental and filial consortium.

Per contra, learned counsel appearing for the insurance company while opposing the prayer and submissions made by the counsel opposite, prayed for dismissal of the appeal by urging that the claimants had been adequately compensated vide the impugned award. It was submitted that the Tribunal had rightly awarded only 10% towards future prospects which deserved to be maintained. However, on a pointed query put to the learned counsel for the insurance

company, he was unable to controvert the submissions made by the counsel opposite that enough cogent evidence had been led before the Tribunal qua the deceased being a salaried employee of Nahar Industrial Enterprises Limited, Bhiwadi, Rajasthan. Still further, learned counsel for the insurance company was also not able to controvert the submissions made by the counsel opposite that the three daughters and mother of the deceased were entitled to be compensated for loss of parental and filial consortium respectively.

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

In view of the fact that the age of deceased was taken to be 52 years and since he was a salaried employee, future prospects assessed by the Tribunal to the extent of 10% is enhanced to 15%. 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/- each for loss of 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 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 and funeral expenses. Besides this, the claimants, who are widow, daughters and mother of the deceased, are entitled to Rs.44,000/- each, for loss of spousal, parental and filial consortium respectively.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.13,176/-
2.	Annual Income	Rs.13,176/- x 12 = Rs.1,58,112/-
3.	Future prospects (15%)	Rs.1,58,112/- x 15% = Rs.23,717/-
4.	Total annual income	Rs.1,58,112/- + Rs.23,717/- = Rs.1,81,829/-
5.	Deductions towards personal expenses (1/4 th)	Rs.1,81,829/- (/) 4 = Rs.45,457/-
6.	Loss of annual future earnings	Rs.1,81,829/- (-) Rs.45,457/- = Rs.1,36,372/-
7.	Multiplier	11
8.	Loss of future earnings	Rs.1,36,372/- x 11 = Rs.15,00,092/-
9.	Loss of consortium	Rs.44,000/- x 5 = Rs.2,20,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.17,53,092/- (rounded off to Rs.17,53,100/-)

The claimants are, therefore, held entitled to a total sum of Rs.17,53,100/- as compensation along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, which shall be paid by the respondents jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, the present appeal stands disposed of in the above terms.

06.12.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No