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

FAO No.1688 of 2013

Date of Decision : 02.09.2022

Santosh and Others

....Appellants

VERSUS

Chander Bhan and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Ekta Thakur, Advocate for the appellants.

None for respondent Nos.2 to 5.

Mr. Suvir Dewan, Advocate for respondent No.6.

ALKA SARIN, J. (Oral)

The present appeal has been preferred by the claimants against the award dated 03.12.2012 passed by the Motor Accident Claims Tribunal, SAS Nagar, Mohali (hereinafter referred to as the 'Tribunal') whereby an amount of Rs.5,97,600/- has been awarded to the claimant-appellants on account of death of Ram Kumar in motor vehicular accident.

The brief facts relevant to the present *lis* are that on 10.01.2011, Ram Kumar-deceased was going from his village Bhabat towards his place of duty at the Airport situated in Village Behlana, UT Chandigarh on his bicycle. When he reached near the end of Flyover of Zirakpur Chandigarh Road, in the meantime respondent No.1, while driving truck bearing registration No.HR-37-A-3455 in a rash and negligent manner hit Ram

Kumar from the rear side as a result of which Ram Kumar fell from the bicycle and the tyre of the truck crushed him causing multiple injuries on the vital organs of his body. Ram Kumar was declared brought dead by the concerned doctor at Civil Hospital, Dera Bassi. Claim petition was filed by the claimant-appellants i.e. 5 children of the deceased, his widow and mother. It was averred in the claim petition that the deceased was earning an amount of Rs.10,000/- per month. The Insurance Company contested the claim by filing a written statement raising the plea of maintainability, cause of action, locus standi, suppression of material facts etc. It was further stated in the written statement that the driver of the vehicle was not holding a valid and effective driving license, valid route permit certificate, fitness certificate etc. The involvement of the vehicle was also denied. Respondent Nos.1 to 5 i.e. the driver and owner of the vehicle chose not to appear and contest the claim petition and were proceeded against ex-parte.

On the basis of the pleadings of the parties and evidence on the record the Tribunal awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.4000/-
2	Annual income of the deceased	Rs.48000/- (4000 x 12)
3	Annual income after deduction of 1/5 th towards personal expenses	Rs.38400/- (48000 - 9600)
4	Multiplier of 14	Rs.537600/-
5	Loss of estate	Rs.5000/-
6	Funeral expenses	Rs.20000/-
7	Loss of consortium	Rs.20000/-
8	Loss of Love and Affection	Rs.15000/-
9	Grand Total	Rs.597600/-

Learned counsel for the claimant-appellants would contend that no amount has been awarded towards future prospects as per law laid down by the Supreme Court in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [2017 (16) Supreme Court Cases 680]** and that since the deceased was 45 years of age at the time of accident, future prospects @ 25% ought to have been awarded. It is further the contention that the amount under the Heads Consortium and Conventional are also not as per the law laid down by the Supreme Court in the case of **Pranay Sethi (supra)**; **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [2018 (18) SCC 130]** and **N. Jayasree & Ors. vs. Chola mandalam MS General Insurance Company Ltd. [2021 (4) RCR (Civil) 642]**.

Per contra, the learned counsel for the respondent-Insurance Company has contended that the amount awarded is sufficient and there is no scope of any enhancement.

Heard.

In the present case there is no dispute qua the factum of the accident. A perusal of the award reveals that no amount has been awarded towards future prospects as per the law laid down by the Supreme Court in the case of **Pranay Sethi (supra)**. The deceased was aged 45 years at the time of the accident and is falling under the category of self-employed, hence 25% future prospects would be payable to the claimant-appellants. Further, the amount awarded under the Heads Consortium and Conventional is also on the lower side.

Keeping in view the law laid down by the Supreme Court in the above-mentioned cases, the compensation is re-worked out as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	Rs.4000/-
2	Annual income of the deceased	Rs.48000/- (4000 x 12)
3	Annual income after deduction of 1/5 th towards personal expenses	Rs.38400/- (48000 - 9600)
4	Addition of 25% on account of future prospects	Rs.48000 (38400 + 9600)
5	Multiplier of 14	Rs.672000/-
6	Loss of estate	Rs.16500/-
7	Funeral expenses	Rs.16500/-
10	Loss of consortium Parental Filial Spousal	Rs.220000/- Rs.44000/- Rs.44000/-
11	Grand Total	Rs.1013000/-
	Difference of compensation	Rs.4,15,400/- (1013000 - 597600)

The enhanced amount of **Rs.4,15,400/-** over and above the amount already awarded by the Tribunal shall carry interest @ 6% per annum from the date of filing of the claim petition till realization. The enhanced amount shall be apportioned in the same manner as directed by the Tribunal.

In view of the above discussion, the above-captioned appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

02.09.2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO