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

FAO-2357-2013 (O&M)
Decided on : 06.05.2022

Uma Rani and others ...... Appellants

Versus

M/s Ravi Dass Transport and others ...... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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

None for respondents No.1 and 2.

Mr. Vishal Aggarwal, Advocate
for respondent No.3.

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<u>Manjari Nehru Kaul, J.(Oral)</u>

Instant appeal has been filed by the appellants-claimants to impugn the award dated 02.12.2011 passed by Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter called as 'the Tribunal') in a claim petition filed under Section 166 of Motor Vehicles Act, wherein the following compensation was assessed and awarded to appellants for the death of deceased Ramesh Chand in an accident, which took place on 02.05.2009:-

Sr. No.	***Head***	***Amount***
1	Monthly income Rs.27,922/-	Rs.27,900/-(rounded off)
2	Annual income 12 x 27,900/-	Rs.3,34,800/-
3	Annual Dependency of claimants 2/3	Rs.2,23,200/-
	Before retirement Rs.2,23,000/-	
	After retirement Rs.48,000/-	
4	Multiplier (before retirement 2) (after retirement 7)	9
5	Compensation	Rs.7,82,000/-
6	Funeral expenses	Rs.5,000/-

Sr. No.	***Head***	***Amount***
7	Loss of consortium	Rs.5,000/-
8	Total compensation	Rs.7,92,000/-

The amount of compensation along with interest @ 6% p.a. was ordered to be paid jointly and severally by the respondents.

Brief facts of the case are thus; on 02.05.2009 Ramesh Chand (hereinafter referred to as 'deceased') and Rajesh were going from Ropar to Ghanoli by bus bearing registration No.PB-11-AD-0577 (hereinafter referred to as 'the offending vehicle'). The bus reached near Ghanoli toll tax at about 11.00 am. When the deceased was disembarking from the offending vehicle, the driver of the offending vehicle suddenly started the bus, as a result of which, the window of the offending vehicle struck against his head. Resultantly, the deceased fell down on the road. The deceased was removed to Civil Hospital, Bharatgarh from where he was referred to Civil Hospital, Ropar and then to PGI where he died on 04.05.2009. It was alleged that the said accident took place due to the rash and negligent driving of the driver of the offending vehicle. The accident was witnessed by one Rajesh. FIR No.47 dated 05.05.2009 under Sections 279 and 304-A IPC was lodged at Police Station Sadar, Roop Nagar, Punjab against the driver of the bus.

On being put to notice, respondents put in appearance. Respondents No.1 and 2 i.e. owner and driver of the offending vehicle in their joint written statement denied the allegations and stated that the accident in question took place due to the negligence of the deceased himself as he was trying to disembark from a moving vehicle. Learned counsel for respondent No.3-Insurance Company in its separate written statement denied that the accident in question had taken place with the offending vehicle, which was insured with it. It was also submitted that firstly, the driver of the offending vehicle was not holding a valid and effective driving licence at the time of accident and secondly, even the insured bus did not have a valid permit, fitness certificate at the time of alleged accident. Hence, the insurance company was not liable to indemnify the owner of the vehicle.

On the basis of material and evidence led, the Tribunal awarded the compensation, which already stands reproduced above.

Learned counsel for the appellants *inter alia* contends that though the Tribunal rightly held that the accident in question had occurred due to the rash and negligent driving of the driver of the offending vehicle, however, it erred in awarding a meagre compensation in the sum of only Rs.7,92,000/- to the appellants. It is submitted that it was a matter of record that the deceased Ramesh Chand, aged 55 years, was a government servant. However, the Tribunal erred in assessing his monthly income as Rs.27,900/- per month even though the deceased was drawing Rs.37,000/- per month. It is further submitted that neither any amount was assessed towards future prospects by the Tribunal nor any amount assessed and granted by the Tribunal towards loss of spousal and parental consortium to the claimants-appellant No.1 and appellants No.2 and 3, who were wife and children of the deceased respectively. Hence, the amount of compensation awarded by the Tribunal was inadequate and required to be enhanced.

On the other hand, learned counsel appearing for the insurance company submits that the impugned award did not warrant any interference as it is adequate and just. He further submits that the Tribunal has erred in fastening the liability on the Insurance Company by ignoring that the driver of the offending vehicle was plying the offending vehicle without a valid driving licence.

After hearing learned counsel for the parties and on perusing the case file, this Court is of the opinion that the compensation awarded by the Tribunal requires to be reassessed in consonance with the judgment rendered by the Constitution Bench of Hon'ble Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi & ors., 2017(4) RCR (Civil) 1009 and Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333.*** Since no evidence has been led qua the monthly income of the deceased being Rs.37,000/- per month, no interference is warranted on that count. 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 spousal and parental 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 was also re-assessed by the Hon'ble Supreme Court ***in Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344 as per the ratio laid down in Pranay Sethi's case (supra).*** Hence, the amount of compensation under the convention heads stands modified to Rs. 16,500/- each for loss of estate & funeral expenses. Besides this, the claimants, who are wife and minor children, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium respectively.

Resultantly, the compensation awarded by the Tribunal is reassessed as follows:-

Sr. No.	***Head***	***Amount***
1	Monthly income	Rs.27,900/-
2	Future prospects (15%)	Rs.4,185/-
3	Annual income	Rs.3,85,020/-
4	Deduction 1/4 towards personal expenses	Rs.96,255/-
5	Multiplier	9
6	Total dependency (2,88,765 x 9)	Rs.25,98,885/-
7	Funeral expenses	Rs.16,500/-
8	Loss of estate	Rs.16,500/-
9	Loss of consortium (Rs.44,000 x 3)	Rs.1,32,000/-
10	Total compensation	Rs.27,63,885/-

The appellants-claimants are, therefore, entitled to a total compensation of Rs.27,63,885/- (rounded off to Rs.27,64,000/-) along with interest at the rate of 8% per annum from the date of filing of the claim petition till its actual realization which shall be paid in the same ratio as directed by the learned Tribunal.

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

06.05.2022 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No