

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

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FAO-3927-2014

Decided on : 13.05.2022

Sushma and others

. . . Appellants

Versus

Rajesh Kumar and others

. . . Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Mukesh Yadav, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for respondent No.3 – Insurance Company.

MANJARI NEHRU KAUL, J. (ORAL)

The appellants-claimants who are wife and minor children of the deceased Raj Kumar, are impugning the award dated 07.03.2014, passed by learned Motor Accidents Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal'), in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, vide which their claim petition was allowed and they were awarded Rs.6,68,000/- @ 7.5% per annum from the date of filing of the petition till its actual realization. The amount of compensation awarded by the Tribunal in the sum of Rs.6,68,000/- was assessed and granted as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.4500/-
2.	Annual Income	12 x 4500=Rs.54,000/-
3.	Future Prospects (40%)	--
4.	Total Annual Income	Rs.54,000/-
5.	Deduction (1/4 th)	Rs.13,500/-

6.	Annual Dependency	Rs.40,500/-
7.	Multiplier	16
8.	Total Dependency	Rs.40,500 x 16=Rs.6,48,000/-
9.	Funeral Expenses	--
10	Loss of Consortium	Rs.10,000/-
11	Loss of Love & Affection	Rs.10,000/-
12	Total Compensation	Rs.6,68,000/-

2. The case of the appellants-claimants in brief is that on 18.07.2012 at about 10:30 P.M., when Raj Kumar (since deceased) along with his father was standing at bus-stand Neer Pur, a truck bearing registration No. HR-63B-2968 (hereinafter referred to as offending truck), being driven by respondent No.1 at a very high speed in a rash and negligent manner, came and struck against the deceased from behind. Resultantly, the deceased suffered serious injuries. He was rushed to the Government Hospital, Narnaul, where he was declared brought dead. An FIR No. 287, dated 19.07.2012, under Sections 279 & 304-A IPC was registered in the siad regard at Police Station City Narnaul.

3. Learned counsel for the appellants-claimants submits that though the deceased (aged 35 years) was working as a Lab Attendant in a School and earning a sum of Rs. 10,000/- p.m., however, the Tribunal ignored the said fact by treating him as a labourer and assessing his income at Rs. 4500/- p.m. as a labourer. Learned counsel further submits that since the deceased was 35 years of age, the correct multiplier which should have been applied by the Tribunal is 16 as per the settled law. He further submits that the claimants are wife and children of the deceased, hence, they were entitled to spousal as well as parental consortium respectively, which they had been denied by the

Tribunal. Besides this, he also submits that the Tribunal had not assessed any compensation *qua* loss of future prospects. Learned counsel thus prays for reassessment and modification of the impugned award, as the same is not in consonance with the judgments rendered by the Apex Court in *Sarla Verma Vs. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77*, *National Insurance Co. Vs. Pranay Sethi, 2017 SCC 270* and *Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram & Ors., 2018(4) RCR (Civil) 333*.

4. On the other hand, learned counsel for respondent No.3 – Insurance Company has vehemently opposed the submissions made by the counsel opposite by submitting that it was the case of the claimants themselves that the deceased was 35 years of age, on the date of alleged accident, hence, the multiplier applied i.e. 16 was correct and did not warrant any interference. He further submits that though, it was claimed that the deceased was a diploma holder and was working as a Lab Attendant in a School, however, no certificate in the said regard or any authentic salary certificate was placed on record by the claimants. Learned counsel further submits that one PW-5 while stepping into the witness-box, did produce documents Ex.PW5/B to Ex.PW-5/G i.e. the salary record of the deceased from January, 2012 to June, 2012 and the attendance register of the school, however, there was no endorsement of the Principal of the School, much less, any other authorized person on behalf of the School in any of those documents. Further submits that in fact it had come in the evidence of PW-5 that the deceased had passed class 12th but he conceded that he was unaware as to whether the deceased was a diploma holder and qualified to be a Lab Attendant.

Learned counsel, thus, submits that the Tribunal had rightly treated the deceased as a labourer and assessed his monthly income accordingly.

Learned counsel for the Insurance Company was, however, not able to dispute that the appellants-claimants were entitled to future prospects, spousal and parental consortium, besides modification with respect to the compensation assessed under other conventional heads.

5. After hearing learned counsel for the parties and on perusal of the case file, this Court does not find any merit in the submissions made by the learned counsel for the appellants-claimants with respect to an incorrect multiplier having been applied by the Tribunal. Since the age of the deceased was 35 years at the time of accident, therefore, as per ***Sarla Verma's case*** (*supra*), the multiplier of 16 was rightly applied. Still further, in the absence of any cogent evidence having been produced by the appellants-claimants with respect to the employment of the deceased as Lab Attendant in Yaduvanshi Shiksha Niketan, Mohindergarh, his monthly income in the sum of Rs.45,00/- by treating him as a labourer was rightly assessed by the Tribunal. However, the Tribunal erred in not granting compensation towards future prospects, consortium and under other conventional heads as per the settled law.

6. The Hon'ble Supreme Court in ***Pranay Sethi's case*** (*supra*) has quantified the amount in the sum of Rs.15,000/- each, to be awarded for loss of estate, funeral expenses and Rs.40,000/- loss of consortium. Still further, it has 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 *qua*

the compensation under conventional heads, as has also been held and reassessed by 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 conventional heads stands modified to Rs.16,500/- each, for loss of estate & funeral expenses. Besides this, the claimants, who are the wife and five minor children of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium respectively.

7. Resultantly, the compensation is re-assessed as follows:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.4500/-
2.	Annual Income	12 x 4500=Rs.54,000/-
3.	Future Prospects (40%)	Rs.5400 x 40/100=Rs.21,600/-
4.	Total Annual Income	Rs.75,600/-
5.	Deduction towards personal expenses (1/4 th)	Rs.18,900/-
6.	Loss of Annual future earnings	Rs.56,700/-
7.	Multiplier	16
8.	Loss of Future earnings	Rs.56,700 x 16 = Rs. 9,07,200/-
9.	Loss of consortium (Spousal) to the wife	Rs.44,000/-
10.	Loss of consortium (parental) to the minor children	Rs.44,000/- x 5 = Rs.2,20,000/-
11.	Funeral Expenses	Rs.16,500/-
12.	Loss of Estate	Rs.16,500/-
13.	Total Compensation	Rs.12,04,000/-

The appellants-claimants are therefore, held entitled to a total of Rs.12,04,000/- as compensation along with interest @ 8% per annum from the date of filing of petition till its actual realization to be paid by the respondents jointly and severally.

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

(MANJARI NEHRU KAUL)
JUDGE

May 13, 2022
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*