IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2864 of 2015 (O&M)
Date of decision: 11th July, 2022

United India Insurance Co. Ltd.

… Appellant

Versus

Krishna Kaur & others

… Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ram Avtar, Advocate for the appellant.

Mr. Manjit Singh Uppal, Advocate for respondents No.1 and 2.

None for respondents No.3 and 4.

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the Insurance Company to impugn the award dated 14.01.2015 passed by learned Motor Accident Claims Tribunal, Patiala in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 whereby claimant/respondents No.1 and 2 were awarded the following compensation:

Sr. No.	**Head**	**Amount**
1.	Monthly income	₹ 5,000/-
2.	Future prospects @ 50 %	₹ 2,500/-
3.	Annual income 12 x 7,500/-	₹ 90,000/-
4.	Deduction towards personal expenses @ 50%	₹ 3,750/-
5.	Dependency	₹ 3,750/-
6.	Total dependency (₹ 3,750 x 12)	₹ 45,000/-
7.	Multiplier	18
8.	Total amount	₹ 8,10,000/-
9.	Transportation and last rites	₹ 25,000/-

10.	Loss of love and affection	₹ 1,00,000/-
	Total compensation	₹ 9,35,000/-

The amount of compensation along with interest @ 9% p.a. was ordered to be paid by the respondents in the claim petition, jointly and severally. Claimant No.1 (mother) was held entitled to ₹ 6,35,000/- along with interest whereas rest of the amount of ₹ 3,00,000/- along with interest would go to claimant No.2 (father) out of the total amount of compensation.

The pleaded case of the claimants was that on 15.01.2012, Bittu Singh (since deceased) along with his brother Budh Ram was going from village Shekhpur to Patiala for unloading bricks from tractor-trolley bearing registration No.PB-14A-7026, being driven by one Ranjodh Singh. When they reached near Barsat Mandi on Sangrur-Patiala road, Ranjodh Singh stopped the tractor-trolley on the kacha berm on the left side of the road. Bittu Singh and his brother Budh Ram were standing near the tractor-trolley when in the meantime the offending truck bearing registration No.PB-13S-8895 which was loaded with bricks, came from Sangrur side in a rash and negligent manner and struck against the tractor-trolley from its rear side. Resultantly, the tractor-trolley ran over Bittu Singh who then fell down in the ditches. Bittu Singh received serious and multiple injuries on his person. Soon after the accident in question, driver of the offending truck, respondent No.3 after leaving the truck on the spot fled away. Though Bittu Singh was shifted to the hospital at Patiala after the accident, however he succumbed to his injuries. The deceased was stated to be 20 years of age at the time of his death and was a labourer. It was claimed that he was earning approximately ₹ 7,000/- per month and was the sole bread-winner of the family. Both the claimants i.e. parents of the deceased were dependent on their deceased son.

Learned counsel for the appellant Insurance Company submitted that the compensation awarded to the respondent/claimants is not in consonance with the settled law and thus deserved to be reassessed and modified accordingly as per the ratio of law laid down by the Hon'ble Apex Court in **'Sarla Verma & others v. Delhi Transport Corporation & another' 2009(6) SCC 121**; **'Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & others' 2018(4) RCR (Civil) 333**; and **'National Insurance Co. vs. Pranay Sethi' 2017 SCC 270**. Learned counsel submitted that the Tribunal erred in granting future prospects to the extent of 50% which on the face of it was contrary to the ratio of law laid down by the Hon'ble Supreme Court in **'National Insurance Co. vs. Pranay Sethi' (ibid)** as admittedly the deceased was a labourer having no fixed income. Learned counsel submitted that future prospects only to the extent of 40% should have been granted while assessing the compensation. He further submitted that even monthly income assessed in the sum of ₹ 7,500/- was on the higher side which deserved to be reduced. Besides this, it was urged that ₹ 1.00 lac, which had been awarded towards loss of love and affection, was on the higher side and also warranted interference of this Court.

Per contra, learned counsel representing the claimants/ respondents No.1 and 2 while opposing the prayer and submissions made by the counsel opposite, submitted that the impugned award was just and adequate which did not warrant any interference of this Court. However, learned counsel was not able to controvert the submissions made by the counsel opposite that as per the settled law the deceased being a labourer, claimants could not have been held entitled to 50% qua the future prospects. Learned counsel conceded that as per the settled law, the claimants, who are parents of the deceased, could be held entitled to only ₹ 40,000/- each for loss of filial consortium and the amount awarded towards loss of love and affection in the sum of ₹ 1.00 lac was admittedly on the higher side. He however submitted that since no amount of compensation had been awarded towards loss of estate, the excess amount, if any, given qua the loss of love and affection be set-off against denial of compensation under loss of estate.

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

This Court concurs with the submissions made by learned counsel for the appellant that the amount of compensation assessed qua future prospects i.e. 50% is contrary to the ratio of law as laid down in **'National Insurance Co. vs. Pranay Sethi' (supra)**. Future prospects are therefore reassessed and modified to the extent of 40%. Since the learned Tribunal has not granted any compensation with respect to loss of estate, the claimants would stand entitled to ₹ 15,000/- each qua not only loss of estate but also funeral expenses. The claimants would also be entitled to ₹ 40,000/- each for loss of filial consortium being parents of the deceased. Still further, Hon'ble the Supreme Court has held that the claimants would be entitled to 10% enhancement after every three years qua loss of estate, funeral expenses and loss of filial consortium.

As a sequel to the above, the compensation awarded by the Tribunal is reassessed as under:

Sr. No.	Head	Amount
1.	Monthly income	₹ 5,000/-
2.	Future prospects @ 40 %	₹ 2,000/-
3.	Annual income 12 x 7,000/-	₹ 84,000/-
4.	Deduction towards personal expenses @ 50%	₹ 3,500/-
5.	Dependency	₹ 3,500/-
6.	Annual dependency (₹ 3,500 x 12)	₹ 42,000/-
7.	Multiplier	18
8.	Total amount	₹ 7,56,000/-
9.	Loss of estate	₹ 16,500/-
10.	Funeral expenses	₹ 16,500/-
11.	Loss of filial consortium (44,000 x 2)	₹ 88,000/-
	Total compensation	₹ 8,77,000/-

The claimant/respondents No.1 and 2 are therefore entitled to a total compensation of ₹ 8,77,000/- along with interest @ 9% per annum from the date of filing of the claim petition till realization of the amount which would be disbursed in the same ratio as directed by the learned Tribunal.

With these modifications, the instant appeal stands disposed off.

(MANJARI NEHRU KAUL)
JUDGE

July 11, 2022
rps

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