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

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**XOBJC-26-2021 (O&M) in/and
FAO-1898-2016 (O&M)
Date of decision: 14.12.2022**

Seema Garg and others .....Appellants

Versus

Mandeep Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sukhdeep Singh Bhinder, Advocate and
Mr. Dilraj Singh Bhinder, Advocate
for the appellants.

Mr. Mohit Sardana, Advocate
for respondent No.1.

Mr. Ashish Singh, Advocate and
Mr. Ashwani Arora, Advocate
for respondent No.2.

Mr. Nigam K. Bhardwaj, Advocate
for respondent No.3-insurance company.

Mr. Siddharth Gupta, Advocate
for cross-objector/respondent No.4.

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MANJARI NEHRU KAUL, J. (ORAL)

This order shall dispose of **FAO-1898-2016 (O&M)** and cross-objections bearing No.**XOBJC-26-CII-2021 (O&M)**, as they both arise out of the same award.

**CM-7157-CII-2016 in FAO-1898-2016 and
CM-6516-CII-2021 in XOBJC-26-2021**

Prayer in the applications is for condonation of delay of 667 days and 201 days in filing the appeal and cross-objections respectively.

For the reasons mentioned in the applications, the same are allowed and delay of 667 days and 201 days in filing the appeal and cross-objections respectively is condoned.

However, it is clarified that the appellants and cross-objector will not be entitled to any interest for the delayed period.

<u>Main Case</u>

The instant appeal has been preferred by the claimants i.e. widow, two daughters and one son of Dr. Sandeep Kumar Garg, aged 38 years (hereinafter referred to as 'the deceased'), who died in a motor vehicular accident which took place on 14.10.2010, to impugn the award dated 26.11.2013 passed by learned Motor Accidents Claims Tribunal, Bathinda (for short, 'the Tribunal').

Respondent No.4-Seona Devi (mother of the deceased), who too was a claimant before the Tribunal, has filed cross-objections and also prayed for reassessing and enhancing the compensation awarded by the Tribunal.

The Tribunal on the basis of material and other evidence led awarded the following compensation to the claimants:-

Sr. No.	**Head**	**Amount**
1.	Monthly income	Rs.13,000/-
2.	Monthly dependency after deducting personal expenses (1/4th)	Rs.9,750/-
3.	Compensation after applying multiplier of '15'	Rs.17,55,000/-
4.	Funeral expenses	Rs.5,000/-
	Total Compensation	Rs.17,60,000/-

The amount of compensation was ordered to be paid jointly and severally by the respondents No.1 to 3 herein along with interest at the rate of 7.5% per annum from 15.11.2011 till actual realization. The

Tribunal held the mother of the deceased Seona Devi (cross-objector) entitled to a sum of Rs.1,00,000/- out of the compensation amount. Out of the remaining awarded amount of Rs.16,60,000/-, amount of Rs.5,000/- was ordered to be given to widow of the deceased as funeral expenses and remaining amount was to be disbursed to appellants/claimants in equal shares.

Learned counsel for the appellants submits that the deceased was a qualified doctor. He had passed his M.B.B.S. in the year 1996 and was also registered with the Medical Council of India vide registration No.MCI/16070 dated 14.02.1997. Thereafter, he joined the Government Services in Haryana from where he resigned and started his private practice at Rampura Phul, Punjab. Learned counsel has further submitted that no doubt the deceased was not an income tax payee, however, it was a matter of record and not disputed by either of the parties that the deceased was indeed in Government Service in Haryana, a qualified doctor, and was earning about Rs.35,000/- per month. He submitted that in the circumstances, the income assessed in the sum of Rs.13,000/- was meagre and deserved to be enhanced. Learned counsel has also urged that no addition towards future prospects was made by the Tribunal while assessing the amount of compensation. It has still further been submitted that the Tribunal had gravely erred in not awarding any compensation for loss of consortium to the claimants even under other conventional heads like loss of estate and funeral expenses, the compensation awarded was not in consonance with the settled ratio of law as laid down in ***National***

Insurance Co. Vs. Pranay Sethi : 2017 SCC 270.

Learned counsel appearing for proforma respondent No.4/cross-objector has supported the case of the appellants/claimants qua enhancement of compensation. However, he submits that proforma respondent No.4/cross-objector had been apportioned a meagre amount of just Rs.1 lakh by the Tribunal. Learned counsel submits that she being mother, was completely dependent upon her deceased son for her sustenance, but due to his untimely death there was no one to even take care of her basic needs as the other claimants had abandoned her and left her alone to fend herself. Therefore, she being a legal heir of the deceased was entitled to equal share in the amount of compensation along with other claimants.

Per contra, learned counsel appearing for respondent No.3-insurance company has opposed the submissions made by the counsel opposite that the income of the deceased in the sum of Rs.13,000/- had been inadequately assessed. Learned counsel for the insurance company has vehemently argued that no evidence was led with respect to proof of income of the deceased much less income tax returns, and hence in the circumstances, the monthly income assessed in the sum of Rs.13,000/- did not warrant any interference. However, learned counsel appearing for the insurance company has not been able to controvert the submissions made by the counsel opposite that the claimants were entitled to loss of consortium (spousal, parental and filial) and future prospects to the extent of 40%.

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

This Court finds substance in the submissions made by the counsel for the claimants that the compensation awarded is on the lower side and, thus, deserves to be reassessed and enhanced accordingly. The Tribunal, no doubt, assessed the income of the deceased in the sum of Rs.13,000/- per month, however, since it is not disputed and is a matter of record that the deceased was a qualified doctor, this Court deems it fit to enhance the monthly income of the deceased from Rs.13,000/- to Rs.20,000/-. The claimants would also be entitled to future prospects to the extent of 40%. The Tribunal has also erred in not awarding any compensation for loss of consortium to the widow, children and the mother of the deceased which shall have to be in the sum of Rs.40,000/- each as per the settled law. 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. 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. 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, three minor children 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.20,000/-
2.	Annual Income	Rs.20,000/- x 12 = Rs.2,40,000/-
3.	Future prospects (40%)	Rs.2,40,000/- x 40% = Rs.96,000/-
4.	Total annual income	Rs.2,40,000/- + Rs.96,000/- = Rs.3,36,000/-
5.	Deductions towards personal expenses (1/4th)	Rs.3,36,000/- (/) 4 = Rs.84,000/-
6.	Loss of annual future earnings	Rs.3,36,000/- (-) Rs.84,000/- = Rs.2,52,000/-
7.	Multiplier	15
8.	Loss of future earnings	Rs.2,52,000/- x 15 = Rs.37,80,000/-
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.40,33,000/-

The claimants are, therefore, held entitled to a total sum of Rs.40,33,000/- as compensation along with interest @ 7.5% per annum from 15.11.2011 till actual realization. The amount of compensation shall be apportioned to the claimants in the following sum:-

Widow of the deceased	Rs.14,33,000/-
3 Children	Rs.21,00,000/- (Rs.7,00,000/- each)
Mother of the deceased (cross-objector)	Rs.5,00,000/-

With these modifications, the present appeal and cross-objections stand disposed of in the above terms.

14.12.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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