IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No. 2661 of 2016 (O & M)
Date of decision : 12.10.2022

HDFC ERGO General Insurance Company Ltd. ……Appellant

Vs.

Fatema Khatun and others ……Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sanjeev Goel, Advocate, for the appellant

Mr. M.S. Kundu, Advocate, for respondent no. 9

TRIBHUVAN DAHIYA, J. (Oral)

1. This is an appeal filed by the Insurance company against the award passed by the Motor Accident Claims Tribunal, Chandigarh (in short 'the Tribunal') dated 3.2.2016, challenging the quantum of compensation paid to the respondents/claimants no.1 to 5.

2. The facts of the case are, the motor vehicular accident in question resulting in death of Mohd. Hefajuddin occurred on 6.5.2013. The Tribunal awarded an amount of Rs. 20,02,000/- as compensation to the claimants, who were dependents of the deceased being his wife, children and parents. Income of the deceased, who was 26 years of age at the time of death, was assessed as Rs.6000/-per month as that of a labourer. Keeping in view the deceased's age, multiplier of 17 was applied as per law laid down by the Supreme Court in ***Sarla Verma v. Delhi Transport Corporation;*** **2009 (3) RCR (Civil) 77**. The claimants were awarded an increase of 50% on the deceased's income towards future prospects. Besides, an amount of rupees one lakh was awarded on

account of consortium to respondent/claimant no.1, and an amount of Rs. 25,000/-was awarded for transportation, funeral expenses and last rights. Apart from this, an amount of rupees one lakh was awarded to each of the claimants for loss of love and affection of the deceased. The awarded amount was to carry interest @ 7.5% per annum from the date of filing of the petition till realization.

3. Learned counsel for the appellant contends that the amount awarded to the respondents/claimants is in violation of law laid down by the Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others;*** **2017 (4) RCR (Civil) 1009**. On that basis, the claimants are entitled to only an increase of 40% on the assessed income of the deceased, instead of 50% awarded by the Tribunal. Besides, the amount awarded under the conventional heads as well as for love and affection to the claimants, also needed to be reduced being contrary to the settled law.

4. The submission of learned counsel for the appellants deserves to be accepted. The amount assessed by the Tribunal is not in accordance with law laid down by the Supreme Court in ***Pranay Sethi*** *(supra)* and ***Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram & others,*** **(2018) 18 SCC 130**, and needs to be re-assessed. Accordingly, in terms of the law laid down the respondents/claimants are held entitled to an addition of 40% to the deceased's income towards future prospects, since he was not in a permanent employment. Besides, under the conventional heads, they are entitled to Rs.44,000/-each for loss of consortium, Rs.16,500/-towards funeral expenses and Rs.16,500/-towards loss of estate. The amount of compensation under the conventional heads has been quantified with 10% increase, as per the law laid down. The award of rupees one lakh to each of the claimants for the loss of love and

affection by the Tribunal is not as per the settled law, hence cannot be granted.

5. In view of the aforesaid, the appellants-claimants are held entitled to the following amount of compensation:

Sr. No.	**Head**	**Compensation awarded by this Court**
1	Annual income (6000 x 12)	72,000
2	Future prospects @ 40% of annual income	28,800
3	Total income including future prospects	1,00,800
4	Deduction @ 1/4th towards personal expenses	25,200 (1,00,800 – 25,200 = 75,600)
5	Multiplier (17), 75,600 x 17	12,85,200
6	Loss of consortium (with 10% increase)	2,20,000
7	Funeral expenses (with 10% increase)	16,500
8	Loss of estate (with 10% increase)	16,500
9	Total amount of compensation	15,38,200

6. The award passed by the Tribunal dated 3.2.2016, therefore, stands modified as afore stated and the appellants-claimants are held entitled to compensation of an amount of Rs.15,38,200/-, with interest at the rate of 7.5 % from the date of filing the claim petition till its actual realization. The liability to satisfy the award, share of the claimants, and the procedure of disbursal shall be as determined by the Tribunal.

7. The appeal stands disposed of accordingly.

8. Pending applications, if any, are disposed of as having been rendered infructuous.

(TRIBHUVAN DAHIYA)
JUDGE

12.10.2022
Ashwani

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