IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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(1) FAO-793-2013 (O&M)
Date of decision: 10.11.2022

New India Assurance Co. Ltd. .....Appellant

Versus

Promila and others .....Respondents

(2) FAO-6233-2016 (O&M)

Promila and others .....Appellants

Versus

Ranjodh Singh and others .....Respondents

(3) FAO-6287-2016 (O&M)

Promila .....Appellant

Versus

Ranjodh Singh and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate
for the appellant-Ins. Co. in FAO-793-2013 and
for respondent No.3 in FAO-6233-2016 and
FAO-6287-2016.

Mr. Inderjit Sharma, Advocate and
Mr. Karan Chaudhary, Advocate
for respondents No.1 to 3-claimants in FAO-793-2013 and
for the appellants in FAO-6233-2016 and FAO-6287-2016.

None for respondents No.4 and 5 in FAO-793-2013 and
for respondents No.1 and 2 in FAO-6233-2016 and
FAO-6287-2016.

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MANJARI NEHRU KAUL, J. (ORAL)

This order shall dispose of the above referred three appeals as they arise out of the same accident and award dated 03.12.2012 passed by learned Motor Accidents Claims Tribunal, Pathankot (hereinafter referred to as 'the Tribunal').

FAO-793-2013 has been preferred by the insurance company to impugn the above said award whereas FAO-6233-2016 and FAO-6287-2016 have been filed by the claimants for enhancement of the compensation awarded to them.

As per the pleaded case of the claimants, on 11.09.2006, truck bearing registration No.HR-38F-2015 (hereinafter referred to as the 'offending vehicle') came in a rash and negligent manner driven by its driver-Gurtej Singh and struck against the bus in which Paras Ram along with his daughter Ekta was travelling. As a result of the collision, they both sustained injuries and succumbed to the same.

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

Compensation awarded on account of death of Paras Ram

Sr. No.	Head	Amount
1.	Monthly Income	Rs.24,160/-
2.	Deduction towards personal expenses (1/3rd)	Rs.96,720/-
3.	Annual dependency	Rs.1,93,200/-
4.	Compensation after applying multiplier of '13'	Rs.25,11,600/-
5.	Loss of consortium	Rs.10,000/-
	Total compensation	Rs.25,21,600/-

Compensation awarded on account of death of Ekta

Sr. No.	Head	Amount
1.	Monthly Income	Rs.4,000/-
2.	Deduction towards personal expenses (50%)	Rs.2,000/-
3.	Annual dependency	Rs.24,000/-

4.	Compensation after applying multiplier of '18'	Rs.4,32,000/-
5.	General damages	Rs.9,500/-
	Total compensation	Rs.4,41,500/-

Learned counsel appearing for the insurance company has challenged the compensation awarded on account of death of Paras Ram primarily on the ground that the Tribunal while granting the compensation had not made the necessary tax deductions and hence the compensation awarded required to be reassessed and modified after carrying out the necessary tax deductions.

Learned counsel appearing for the claimants, on the other hand, has vehemently argued that the Tribunal had granted inadequate compensation which was not in consonance with the settled ratio of law as laid down by the Hon'ble Supreme Court in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333; National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*** and ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121***. While drawing the attention of this Court to the compensation awarded to the claimants on account of death of Paras Ram, who was 46 years of age on the date of accident, learned counsel submits that since deceased Paras Ram was a Government employee and working as an Assistant Engineer, he ought to have been given 30% towards future prospects. However, the Tribunal had failed to do so. He further submits that even under the conventional heads like loss of consortium, funeral expenses and loss of estate, compensation awarded was not as per the settled ratio of law.

Learned counsel for the claimants further submits that deceased Ekta was 18 years old girl, who was pursuing Bachelor of Dental Surgery (B.D.S.). The Tribunal assessed income of deceased Ekta in the sum of Rs.4,000/- per month only which was meagre and on the face of it inadequate. Learned counsel submits that the Tribunal had failed to appreciate that deceased Ekta on completion of her B.D.S. Course would have earned at least Rs.15,000/- per month, if not more and hence the compensation in the sum of Rs.4,000/- per month required to be reassessed and enhanced accordingly. It was also urged that even under the conventional heads like loss of filial consortium, loss of estate and funeral expenses, the compensation awarded was not as per the settled law. It was also further submitted that the claimant was entitled to 40% towards future prospects which had erroneously been not granted by the Tribunal.

The prayer for enhancement of compensation by the learned counsel for the claimants in respect of deceased Ekta has been opposed by the learned counsel for the insurance company by urging that it was just and adequate and thus did not warrant any interference.

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 insurance company that the deductions of income tax from the salary of deceased Paras Ram should have been made while assessing the compensation. This Court, however, at the same time finds force in the submissions made by learned counsel for the claimants that since deceased Paras Ram was a Government employee, the claimants were entitled to 30% towards future prospects. An additional application-CM-14035-CII-2021 in FAO-6233-2016 was moved by learned counsel for the claimants for producing on record certificate of deceased Paras Ram regarding eligibility of the deceased for promotion. This Court is of the opinion that for calculation of loss of dependency, only the income of the deceased at the time of the accident has to be taken into consideration. Any evidence qua the future income of the deceased cannot be looked into, especially when future prospects are being granted by this Court in consonance with settled law. Therefore, the present application for leading additional evidence is dismissed.

This Court also concurs with the submissions made by the learned counsel for the claimants that the monthly income of deceased Ekta assessed by the Tribunal in the sum of Rs.4,000/- is on the lower side and it needs to be reassessed. Since deceased Ekta was pursuing her B.D.S., on completion of the same she would have started earning at least Rs.10,000/- per month, if not more. Hence, her income is enhanced to Rs.10,000/- per month. The Tribunal has further erred in not granting future prospects to the claimant as decased Ekta was 18 years of age at the time of the accident. Accordingly, the claimant is held entitled to 40% towards future prospects.

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 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 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 and funeral expenses. Besides this, the claimants, who are widow, mother and son 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:-

<u>Compensation on account of death of Paras Ram</u>

Sr. No.	Head	Amount
1.	Monthly Income	Rs.24,160/-
2.	Annual Income	Rs.24,160/- x 12 = Rs.2,89,920/-
3.	Annual income tax	Rs.36,976/-
4.	Annual income after deducting income tax	Rs.2,52,944/-
5.	Future prospects (30%)	Rs.2,52,944/- x 30% = Rs.75,883/-
6.	Total annual income	Rs.2,52,944/- + Rs.75,883/- = Rs.3,28,827/-
5.	Deductions towards personal expenses (1/3rd)	Rs.3,28,827/- (/) 3 = Rs.1,09,609/-
6.	Loss of annual future earnings	Rs.3,28,827/- (-) Rs.1,09,609/- = Rs.2,19,218/-
7.	Multiplier	13
8.	Loss of future earnings	Rs.2,19,218/- x 13 = Rs.28,49,834/-
9.	Loss of consortium	Rs.44,000/- x 3 = Rs.1,32,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/
	Total compensation	Rs.30,14,834/- (rounded off to Rs.30,14,830/-)

<u>Compensation on account of death of Ekta</u>

Sr. No.	Head	Amount
1.	Monthly Income	Rs.10,000/-
2.	Annual Income	Rs.10,000/- x 12 = Rs.1,20,000/-
3.	Future prospects (40%)	Rs.1,20,000/- x 40% = Rs.48,000/-
4.	Total annual income	Rs.1,20,000/- + 48,000/- = Rs.1,68,000/-
5.	Deductions towards personal expenses (50%)	Rs.1,68,000/- (/) 2 = Rs.84,000/-
6.	Loss of annual future earnings	Rs.1,68,000/- (-) Rs.84,000/- = Rs.84,000/-
7.	Multiplier	18
8.	Loss of future earnings	Rs.84,000/- x 18 = Rs.15,12,000/-
9.	Loss of consortium	Rs.44,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.15,89,000/-

The claimants are, therefore, held entitled to the compensation as assessed above along with interest @ 9% per annum from the date of filing of claim petition till its actual realization. The compensation would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

Accordingly, all the three appeals stand disposed of in the above terms.

10.11.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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