244 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

FAO-4634-2015
Decided on : 25.07.2022

Karamjeet Kaur and others ...... Appellants

Versus

Sukhjinder Singh and another ...... Respondents

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. D.K.Narula, Advocate
for the appellants.

Respondent No.1 proceeded against ex parte
vide order dated 11.12.2015.

Mr. Punit Jain, Advocate
for respondent No.2.

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***Manjari Nehru Kaul, J.(Oral)***

Instant appeal has been preferred by the appellants-claimants seeking enhancement of the compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein the following compensation was assessed and awarded to the appellants on account of death of Amritpal Singh (hereinafter referred to as 'deceased') due to the injuries suffered in a motor vehicular accident on 25.11.2012:-

| ***Sr. No.*** | ***Head*** | ***Amount*** |
|---|---|---|
| 1 | Monthly income | Rs.8,000/- |
| 2 | Annual income (Rs.8,000 x 12) | Rs.96,000/- |
| 3 | Deduction towards personal expenses | Rs.4,000/- |
| 4 | Annual dependency (Rs.96,000-Rs.48,000 ) | Rs.48,000/- |
| 5 | Multiplier | 18 |
| 6 | Total dependency (Rs.48,000 x 18) | Rs.8,64,000/- |
| 7 | Funeral expenses | Rs.25,000/- |
| 8 | Loss of love and affection | Rs.50,000/- |

| Sr. No. | Head | Amount |
|---|---|---|
| 9 | Loss of estate | Rs.10,000/- |
| 10 | Total compensation | Rs.9,49,000/- |

The amount of compensation along with interest @ 9% p.a. from the date of the filing of the claim petition till its realization, was ordered to be paid jointly and severally by respondents No.1 and 2.

Learned counsel for the appellants-claimants submits that admittedly the deceased Amritpal Singh was a student of B.Tech when he died in a motor vehicular accident on 25.11.2012. He submits that while assessing the income of the deceased, the Tribunal fell into error by treating him as an unskilled labourer and assessing his income at Rs.8,000/- per month. He further submits that since the deceased was pursuing a professional degree and on completion, he would have been a qualified engineer, his income should have thus, been assessed at, atleast Rs.10,000/- per month. He still further submits that the compensation awarded was not in consonance with the settled law in ***Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121, National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270 and Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333.*** Further more, learned counsel submits that neither any compensation qua future prospects was granted nor under the conventional heads adequate compensation was awarded to the claimants and hence, it deserves to be reassessed and modified accordingly.

Per contra, while opposing the prayer made by counsel for the appellants, learned counsel for the insurance company submits that the Tribunal had not erred in treating the deceased as an unskilled labourer because admittedly, when the accident in question took place, he was not professionally qualified. Learned counsel submits that as per the notification of the State Government qua unskilled worker the minimum wages for the relevant period was Rs.4,568/- per month, but still the Tribunal assessed Rs.8,000/- per month as his income, which was much more than the minimum prescribed wages. Learned counsel has, however, not been able to controvert the submissions made by counsel opposite that the compensation awarded under the conventional heads was not in consonance with the settled law and still further, the appellants-claimants were indeed entitled to compensation qua future prospects.

Heard learned counsel for the parties and perused the case file.

This Court concurs with the submissions made by learned counsel for the appellants that since the deceased, who was 19 years old young boy pursuing B.Tech, the claimants deserved to be duly compensated in the sum of Rs.10,000/- per month and when the deceased would have graduated, he would have been a qualified Engineer and would have drawn a salary of at least Rs.10,000/- per month. Further, the deceased was a 19 year old boy, the appellants-claimants are thus, entitled to an addition of 40% to the income of the deceased towards future prospects as per the settled law. It needs to be observed that no compensation has been granted to the claimants for loss of filial consortium. They would be thus, also entitled to Rs.40,000/- each for loss of filial consortium as per *Pranay Sethi's case(supra).* The claimants would be entitled to Rs.15,000/- each for loss of estate and for funeral expenses, which requires to be modified. Since it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years, 10% enhancement qua the abovementioned conventional heads would have to be made. 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 parents and younger brother of the deceased, are entitled to Rs.44,000/- each, for loss of filial consortium.

The compensation is reassessed and modified as follows:

| ***Sr. No.*** | ***Head*** | ***Amount*** |
|---|---|---|
| 1 | Monthly income | Rs.10,000/- |
| 2 | Future prospectus (40%) | Rs.4,000/- |
| 3 | Annual income (Rs.10,000 + Rs.4,000 = 14,000 x 12) | Rs.1,68,000/- |
| 3 | Deduction towards personal expenses (1/2) | Rs.84,000/- |
| 4 | Annual Dependency (Rs.1,68,000-Rs.84,000) | Rs.84,000/- |
| 5 | Multiplier | 18 |
| 6 | Total amount (Rs.84,000 x 18) | Rs.15,12,000/- |
| 7 | Loss of estate | Rs.16,500/- |
| 8 | Funeral expenses | Rs.16,500/- |
| 9 | Loss of consortium (Rs.44,000 x 3) | Rs.1,32,000/- |
| | Total compensation | Rs.16,77,000/- |

In the circumstances, the appellants-claimants are entitled to afore-detailed enhanced compensation of Rs.7,28,000/- (Rs.16,77,000-Rs.9,49,000) along with interest at the rate of 9% per annum from the date of filing of the claim petition till its actual realization, which shall be paid jointly and severally by respondents No.1 and 2 in the same terms and ratio as directed by the Tribunal.

With the above modifications, the instant appeal and the cross-objections stand disposed of.

25.07.2022 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

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