IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO-3862-2016 (O&M) and
XOBJC-277-CII-2016 (O&M)
Date of decision: 16.05.2022

Reliance General Insurance Company Ltd. .....Appellant

Versus

Murti and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanjeev Kodan Advocate
for the appellant.

Mr. Rakesh Kumar Sharma, Advocate
for the cross-objectors/respondents No.1 to 7.

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MANJARI NEHRU KAUL, J. (ORAL)

This order shall dispose of **FAO-3862-2016 (O&M)** and cross-objections bearing No.**XOBJC-277-CII-2016 (O&M)**, as they arise from the same award.

CM-23657-CII-2016

For the reasons mentioned in the application, the same is allowed and delay of 29 days in filing the cross-objections is condoned.

Main case

The instant appeal has been preferred by the Insurance Company against the award dated 03.03.2016, passed by the learned Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, whereby, compensation in the sum of Rs.13,17,960/-, was awarded to the claimants/respondents No.1 to 7 i.e. widow and six children of deceased Ram Chander, who was stated to be 54 years of age at the time of the accident in question.

The claimants/respondents No.1 to 7 have also filed cross-objections for enhancement of compensation by urging that the compensation awarded by the Tribunal is inadequate and meagre.

A few facts as pleaded in the claim petition by the claimants/respondents No.1 to 7 may be noticed. On 08.01.2015, when Ram Chander (since deceased) along with others was sitting in front of bon fire, the offending vehicle No.HR-72-B-7123, being driven rahsly and negligently by respondent No.1, came and hit the deceased and others, as a result of which the deceased sustained grievous injuries. The deceased was shifted to Government Hospital, Sohna where he was declared brought dead. The Tribunal on the basis of evidence led by the parties, assessed and awarded the following compensation to the claimants/respondents No.1 to 7:-

Sr. No.	Head	Amount
1.	Monthly income	Rs.9,000/-
2.	15% for the loss of future income	Rs.1,350/-
3.	Total income	Rs.10,350/-
4.	1/5th deducted towards personal expenses of the deceased	Rs.2,070/-
5.	Net	Rs.8,280/-
6.	Multiplier	11
7.	Loss of dependency	Rs.10,92,960/- (8280 x 11 x 12)
8.	Loss of consortium to widow	Rs.1,00,000/-
9.	Loss of love and affection and guidance to minor children	Rs.1,00,000/-
10.	Funeral expenses and transportation charges	Rs.25,000/-
	Total Compensation	Rs.13,17,960/-

The amount of compensation was ordered to be paid jointly and severally by the appellant-insurance company and respondents No.8 and 9 herein along with interest at the rate of 9% per annum from the date of filing of the claim petition till payment. 50% out of compensation amount was ordered to be paid to respondent No.1 and remaining 50% of compensation amount was ordered to be paid to respondents No.2 to 7 herein i.e. the children of the deceased in equal shares.

Learned counsel for the insurance company is challenging the impugned award on the issue of quantum. He submits that deceased Ram Chander, aged 54 and half years of age, was a driver by profession and hence he could at best have been treated as a skilled person. While drawing the attention of this Court to the minimum wages notified by the State Government with respect to a skilled labourer for the relevant period, learned counsel submits that the Tribunal had gravely erred in fixing the income of the deceased at Rs.9,000/- per month which required to be scaled down. He submits that no documentary evidence was produced by the claimants in support of their claim that the deceased was drawing a salary of Rs.9,000/- per month. He further submits that the Tribunal also erred in assessing the loss of future income at 15% which was not in consonance with the settled law. He further submitted that under the other conventional heads as well, the amount of compensation awarded was contrary to the settled law as laid down in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009)***

6 SCC 121 and ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333***.

Per contra, learned counsel appearing for the cross-objectors/claimants/respondents No.1 to 7 submits that since the claimants were widow and children of deceased they were entitled to spousal and parental consortium at Rs.40,000/- each which had not been granted to them. He also submits that the claimants were entitled to compensation qua loss of estate as per the settled law.

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

This Court concurs with the submissions made by the learned counsel for the insurance company that in the absence of any evidence produced by the claimants, the monthly income of the deceased should have been assessed at Rs.6,208/- (skilled worker) as the deceased was a truck driver by profession. Monthly income of the deceased, therefore, requires to be scaled down from Rs.9,000/- to Rs.6,208/-. As per the settled law since the deceased was about 56 years of age, the claimants would be entitled to only 10% for loss of future prospects which too shall stand modified to the said extent. 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 was also re-assessed by the Hon'ble Supreme Court in ***Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344*** as per the ratio laid down in ***Pranay Sethi's case*** *(supra).* Hence, the amount of compensation under the convention heads stands modified to Rs. 16,500/- each for loss of estate & funeral expenses. Besides this, the claimants, who are mother, two minor children and widow of the deceased, are entitled to Rs.44,000/- each, for loss of filial, parental and spousal consortium, respectively.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	**Head**	**Amount**
1.	Monthly income	Rs.6,208/- (rounded off to Rs.6,200/-)
2.	Annual income	Rs.74,400/- (6200 x 12)
3.	Future prospects (10%)	Rs.7,440/- (74400 x 10%)
4.	Total annual income	Rs.81,840/-
5.	Deduction (1/5th)	Rs.16,368/-
6.	Loss of annual future earnings	Rs.65,472/-
7.	Multiplier	11
8.	Loss of future earnings	Rs.7,20,192/- (65472x 11)
9.	Loss of consortium (spousal and parental)	Rs.3,08,000/- (44000 x 7)
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.10,61,192/- (rounded off to Rs.10,61,200/-)

The claimants are, therefore, held entitled to a total sum of Rs.10,61,200/- as compensation along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, in terms of the apportionment decided by the Tribunal.

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

16.05.2022 (**MANJARI NEHRU KAUL**)
Vinay **JUDGE**

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