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

236

**XOBJC-65-CII-2017 in/and
FAO-3869-2016 (O&M)
Date of Order: 02.03.2022**

UNITED INDIA INSURANCE CO. LTD.

..Appellant

Versus

JEETO @ JEET KAUR @ JIT KAUR AND ORS.

..Cross-objectors

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Pabbi, Advocate
for Insurance Company.

Mr. Sanjiv Goyal, Advocate
for the cross-objectors.

Mr. Munish Behl, Advocate

ANIL KSHETARPAL, J(Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

By this order, the appeal filed by the Insurance Company and cross-objection filed by the claimants shall stand disposed of.

The correctness of the findings of the Tribunal with regard to the involvement of the vehicle, rash and negligent driving on the part of Amritpal Singh @ Pal Singh, are not disputed.

The learned counsel representing the Insurance Company has stated that the Tribunal has erred in deducting 1/3rd of the income as self and living expense of the deceased particularly when the deceased was unmarried. He submits that the deduction should be 50% of the income. He further submits that on account of increase in the income, due to future prospects, the Tribunal has added 50% of the income which should be 40% as per the judgment passed by the Five Judge Bench in ***National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC Online SC 1270***.

Per contra, the learned counsel representing the claimants do not dispute the correctness of the arguments of the learned counsel representing the Insurance Company. However, in support of his cross-objection, he has stated that the Tribunal has assessed the income at the rate of Rs.6,000/- per month, whereas, as per the notification under Section 4 of the Minimum Wages Act, 1948, on 01.09.2015, the minimum income of a unskilled labour was Rs.6,935.62/- per month. He submits that the accident took place on 29.08.2015 therefore, the minimum wages as notified on 01.09.2015, should be made applicable.

The learned counsel representing the cross-objectors further submits that the Tribunal has erred in applying multiplier of 17, whereas, it should be 18 because the age of the deceased was less than 25 years. He submits that in the postmortem report, the age of the deceased is recorded as 20 years.

Per contra, the learned counsel representing the Insurance Company has submits that as per the Aadhar Card, the deceased was 25 years of age therefore, the correct multiplier has been applied.

In absence of the documentary evidence to prove the age of the deceased, the Tribunal has correctly relied upon the Aadhar Card.

Keeping in view the aforesaid facts, the Income of the deceased for the purpose of dependency is assessed at the rate of Rs.6,935.62/- per month. There shall be deduction of 50% from the income on account of self and living expense.

The income shall be liable to be increased by 40% on account of increase in the income due to future prospects.

As per the judgment passed by the Hon'ble Supreme Court in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333*** which has been reiterated by another Division Bench in ***New India Assurance Co. Ltd. vs. Somwati and others, Civil Appeal No.3093 No.2020, decided on 07.09.2020***, and by a three Judge Bench in ***United India Insurance Company Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410,*** in which it has been approved that each parent is entitled to Rs.40,000/- as consortium.

The learned counsel representing the Insurance Company has pointed out that under the conventional heads, the Tribunal has erred in awarding Rs.25,000/- as funeral expenses which should be Rs.15,000/-, whereas, towards transportation no amount be to awarded, whereas, Rs.15,000/- should be awarded towards loss of estate.

In view thereof, the revised amount of compensation is calculated as under:-

Heads	Amount awarded by the Motor Accidents Claims Tribunal (MACT).	Amount awarded by the High Court
Monthly Income	Rs.6,000/-	Rs.6935.62/-
Future Prospects	50% (Rs.3,000/-)	40% (Rs.2,774.25/-)
Monthly income after adding future prospects	Rs.9,000/-	Rs.9,709.87/-

Deduction	1/3 (Rs.3,000/-)	1/2 (Rs.4,855/-)
Multiplier	17 (6000 X 12 X 17 = Rs.12,24,000/-	17 (4855 X 12 X 17 = Rs.9,90,420/-
Funeral expenses + Transportation	Rs.25,000 + Rs.31,000 = Rs.56,000/-	Rs.15,000/-
Loss of Estate	–	Rs.15,000/-
Filial consortium	Rs.50,000/-	Rs.40,000 X 2 = Rs.80,000/-
Total amount awarded (Award)	**Rs.13,30,000/-**	**Rs.11,00,420/-**

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

02nd March, 2022 **(ANIL KSHETARPAL)**
Ay **JUDGE**

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