IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(1) FAO-4185-2016 (O&M)
Reserved on 21.07.2022
Pronounced on: 01.08.2022

National Insurance Co. Ltd. .....Appellant

Versus

Daljit Singh Kanwar and others .....Respondents

(2) FAO-5934-2016 (O&M)

Daljit Singh Kanwar and another .....Appellants

Versus

Taj Travels Private Limited and another .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by : Mr. Lalit Garg, Advocate
for the appellant in FAO No.4185 of 2016 and
for respondent No.2 in FAO No.5934 of 2016.

Ms. Ramandeep Kaur, Advocate for
Ms. Himani Kapila, Advocate
for respondents No.1 and 2 in FAO No.4185 of 2016 and
for the appellants in FAO No.5934 of 2016.

Mr. Anand Kumar Maurya, Advocate for
Mr. Achin Gupta, Advocate
for respondent No.3 in FAO No.4185 of 2016.

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MANJARI NEHRU KAUL, J.

CM-14359-CII-2016 in FAO-4185-2016 (O&M) and
CM-20333-CII-2016 in FAO-5934-2016

For the reasons mentioned in the applications, the same are allowed and delay of 41 days and 57 days respectively in filing the appeals is condoned.

FAO-4185-2016 (O&M) and FAO-5934-2016

The above referred appeals are being disposed of by this common order as they arise out of the same impugned award dated

26.02.2016 passed by learned Motor Accidents Claims Tribunal, Gurdaspur (for short, 'the Tribunal').

For the sake of convenience, the facts are being taken from FAO-4185-2016, filed by the insurance company.

The insurance company is in appeal against the award passed by learned Tribunal wherein the following compensation was awarded to the claimants (appellants in FAO-5934-2016) who are parents of deceased Keerti Kanwar, who died in a Motor Vehicular Accident which took place on 11.04.2015 at about 05:00 P.M. in the area of Police Station Garh Shankar:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.9,630/-
2.	Monthly income after adding future prospects (30%)	Rs.12,519/-
3.	Deduction towards personal expenses (50%)	Rs.6,260/-
4.	Loss of Annual income	Rs.75,120/-
5.	Loss of dependency	Rs.12,01,920/-
6.	Love and affection	Rs.1,00,000/-
7.	Funeral expenses	Rs.25,000/-
8.	Loss of estate	Rs.10,000
	Total Compensation	Rs.13,36,920/-

The claimants were held entitled to total compensation of Rs.13,36,920/- along with interest @ 7.5% per annum from the date of institution of claim petition till the realization of whole amount of the compensation. Out of the total compensation amount, both the claimants were held entitled to Rs.6,68,460/- each. It was held by the learned Tribunal that since the insurance company had agreed to indemnify the owner against all third party claims, it was the insurance company, which would be liable to pay the compensation awarded.

Learned counsel for the insurance company has challenged the impugned award primarily on the issue of quantum. Learned counsel for the insurance company has vehemently urged that though it was pleaded by the claimants that the deceased was working in Talisman Placement Services as Human Resource Executive Officer and earning Rs.9,630/- per month, however, they had failed to examine the employer of the deceased who had issued salary certificate (Ex.C9). It was submitted that in the circumstances the Tribunal had fallen into error by assessing the income of the deceased on the higher side which thus deserved to be scaled down. It was also submitted that since the deceased was 35 years of age on the date of accident, the compensation granted to the extent of 30% towards future prospects was exorbitant and also deserved to be reassessed and scaled down. It was also urged that an incorrect multiplier of '16' had been applied as per the age of the deceased and not as per the age of the parents of the deceased. Lastly, it was vehemently urged that, in fact, the claimants were not even entitled to any compensation as the deceased was a married woman though having a matrimonial dispute with her husband, who was living in Kanpur.

Learned counsel for the claimants on the other hand vehemently opposed the submissions made by the counsel opposite and submitted that it was a matter of record that the deceased was a highly qualified person having a Masters in Commerce besides having done B.Ed., PGDCA and a diploma in accounts. Enough cogent evidence in the shape of the salary certificate of the deceased from her employer

(Ex.C9), certificate issued by the company (Ex.C10), salary statement (Ex.C11) had been produced before the Tribunal qua her salary etc. It was claimed that in fact the Tribunal had erred in assessing the income of the deceased on the lower side without considering her educational qualifications, which thus, deserved to be enhanced. Learned counsel submitted that the claimants were the parents of the deceased and were both emotionally and financially dependent on their deceased daughter, who had been living with them. It was vehemently disputed by learned counsel that the deceased was a married woman. He submitted that the deceased was engaged to be married with a person from Kanpur but had never been married to anyone much less to the person from Kanpur.

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

The submissions made by learned counsel for the insurance company that the deceased was a married woman and thus the claimants who are her parents would not be entitled to compensation is devoid of any merit as no evidence much less cogent, was led qua her marital status. In the circumstances, the claimants would be held entitled to the compensation awarded on account of the death of their daughter. As per the settled law, only deductions towards income tax can be made while computing the monthly salary of the deceased, therefore, the Tribunal erred in deducting the allowances from the gross monthly income. This Court, therefore, in view of her qualifications and the salary certificate (Ex.C-9) is of the opinion that gross salary in the sum of Rs.10,606/- (rounded off to Rs.11,000/-) is to be taken as monthly income for computation of the compensation. Since the deceased was a salaried employee working with Talisman Placement Services as per salary certificate (Ex.C-9) and was 35 years of age on the date of accident, the claimants would stand entitled to addition of 50% of the income towards future prospects. Since the deceased was a spinster, hence deductions towards personal expenses shall have to be made to the extent of 50%.

The Hon'ble Supreme Court in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*** 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 filial 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 parents of the deceased, are entitled to Rs.44,000/- each, for loss of filial consortium respectively.

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

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.10,606/- (rounded off to Rs.11,000/-)
2.	Annual Income	Rs.11,000/- x 12 = Rs.1,32,000/-
3.	Future prospects (50%)	Rs.1,32,000/- x 50% = Rs.66,000/-

4.	Total annual income	Rs.1,32,000/- + Rs.66,000/- = Rs.1,98,000/-
5.	Deductions towards personal expenses (1/2)	Rs.1,98,000/- / 2 = Rs.99,000/-
6.	Loss of annual future earnings	Rs.1,98,000/- (-) Rs.99,000/- = Rs.99,000/-
7.	Multiplier	16
8.	Loss of future earnings	Rs.99,000/- x 16 = Rs.15,84,000/-
9.	Loss of consortium	Rs.44,000/- x 2 = Rs.88,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/
	Total compensation	Rs.17,05,000/-

The claimants are, therefore, held entitled to a total sum of Rs.17,05,000/- as compensation along with interest @ 8% per annum from the date of filing of claim petition till its actual realization in the same ratio as directed by learned Tribunal.

Consequently, the appeal filed by the insurance company i.e. FAO-4185-2016 is dismissed and the appeal filed by the claimants i.e. FAO-5934-2016 is disposed of with the above-said modifications.

01.08.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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