IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5791 of 2015 (O&M)

Date of decision: 26th July, 2022

Parveen Kumari & others

… Appellants

Versus

Bodh Raj & others

… Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rajiv Dev Sharma, Advocate for the appellants.

Mr. Amrinder S. Sidhu, Advocate
for the insurance company/respondent No.3.

MANJARI NEHRU KAUL, J.

The claimants, who are parents and sister respectively of deceased Pankaj Mohan, are impugning the award dated 06.07.2015 passed by learned Motor Accident Claims Tribunal, Pathankot in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 wherein they were awarded following compensation on account of the death of Pankaj Mohan in a motor vehicular accident which took place on 18.10.2014:

Sr. No.	Head	Amount
1.	Monthly income	₹ 8,000/-
2.	Annual income 12 x 8,000/-	₹ 96,000/-
3.	Dependency	₹ 36,000/-
4.	Multiplier	17
5.	Total amount	₹ 6,12,000/-
6.	Cremation expenses	₹ 25,000/-

7.	Loss of love and affection	₹ 1,00,000/-
8.	Medical expenses	₹ 4,25,000/-
	Total compensation	₹ 11,62,000/-

All the respondents were held liable to pay the amount of compensation jointly and severally.

As per the claim petition, it was pleaded that on the fateful day i.e. 18.10.2014 at about 6.00 p.m. when one Daljit Singh was going on his motorcycle along with the deceased, who was pillion riding, truck bearing registration No.PB-11-M-6945 (hereinafter referred to as, 'offending vehicle') came in a rash and negligent manner driven by respondent No.1 and collided with the motorcycle, as a result of which, both Daljit Singh and the deceased received multiple grievous injuries. Though the deceased was immediately removed to a hospital, however, he succumbed to his injuries. FIR No.82 dated 19.10.2014 under Sections 279, 304-A, 337, 338, 427 IPC was registered against respondent No.1 Bodh Raj, driver of the offending vehicle. It was claimed that the deceased Pankaj Mohan, who was 25 years of age at the time of the accident in question, was working as Store Incharge in Tata Motors Triump Auto Engineering Private Limited at Gurgaon (Haryana) on a monthly salary of ₹ 25,000/-.

Learned counsel for the appellants submits that the compensation awarded was inadequate and not in consonance with the ratio of law as laid down in **'Sarla Verma & others v. Delhi Transport Corporation & another' 2009(6) SCC 121**; **'Magma General**

Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram & others' 2018(4) RCR (Civil) 333; and **'National Insurance Co. vs. Pranay Sethi' 2017 SCC 270**. He went on to submit that as per the salary certificate which was produced as Ex.P1 before the Tribunal, it clearly stood reflected that the net salary, which the deceased was drawing, was in the sum of ₹ 19,000/- per month however, the Tribunal had erred in assessing the salary of the deceased in the sum of ₹ 8,000/- per month by only taking his basic salary into account. It was further submitted that the Tribunal had also failed to compensate the claimants qua future prospects which in the instant case should have been to the extent of 50%. It was further urged that under the conventional heads also, compensation required to be re-assessed and modified accordingly.

Per contra, learned counsel for the respondent/insurance company opposed the prayer and submissions made on behalf of the claimants, by arguing that the monthly income assessed in the sum of ₹8,000/- did not warrant any interference. He further submitted that no doubt, the salary certificate was indeed produced as Ex.P1 however, the Tribunal was perfectly justified in taking into account only the basic salary of the deceased while calculating the compensation. He, thus prayed for dismissal of the appeal.

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

As per the settled law, only deduction towards income tax can be made while computing the monthly salary of the deceased, therefore the learned Tribunal erred in only considering the basic salary of the deceased as ₹ 8,000/- while assessing his income.

Since it is not disputed that Ex.P1 i.e. salary certificate of the deceased produced before the learned Tribunal clearly showed that his gross income was ₹ 19,000/- per month, the amount of monthly income of the deceased as assessed by the learned Tribunal requires to be enhanced to ₹ 19,000/-. The deceased was a salaried employee working with Triumph Auto Engg. Pvt. Ltd. He was 25 years of age on the date of accident and in view thereof the claimants would be entitled to an addition of 50% of income towards future prospects as per the ratio of law as laid down in **'National Insurance Co. vs. Pranay Sethi'**. Since the deceased was a bachelor, deduction of 50% would have to be made towards his personal expenses. Besides, the claimants would be entitled to ₹ 15,000/- each qua loss of estate and a similar amount towards funeral expenses. The claimants would also be entitled to ₹ 40,000/- each for loss of filial consortium being parents and sister of the deceased. Still further, Hon'ble the Supreme Court has held that the claimants would be entitled to 10% enhancement after every three years qua loss of estate, funeral expenses and loss of filial consortium. The amount of interest at the rate of 6% p.a. as assessed by the learned Tribunal, also needs to be modified to 7.5% per annum.

As a sequel to the above, the compensation awarded by the Tribunal is reassessed as under:

Sr. No.	Head	Amount
1.	Monthly income	₹ 19,000/-
2.	Annual income 12 x 19,000/-	₹ 2,28,000/-
3.	Future prospects @ 50 %	₹ 1,14,000/-
4.	Total annual income including future prospects (2,28,000 + 1,14,000)	₹ 3,42,000/-
5.	Deduction towards personal expenses @ 50%	₹ 1,71,000/-
6.	Annual dependency	₹ 1,71,600/-
7.	Multiplier	18
8.	Loss of dependency (1,71,000 x 18)	₹ 30,78,000/-
9.	Loss of estate	₹ 16,500/-
10.	Funeral expenses	₹ 16,500/-
11.	Loss of filial consortium (44,000 x 3)	₹ 1,32,000/-
	Total compensation	₹ 32,43,000/-

The claimant/appellants are therefore entitled to a total compensation of ₹ 32,43,000/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization of the amount. Out of the total compensation, appellants No.1 and 2, being parents of the deceased, would be entitled to ₹ 12,00,000/- each, whereas remaining amount of ₹ 8,43,000/- shall go to appellant No.3, who is sister of the deceased.

With these modifications, the instant appeal stands disposed off.

(MANJARI NEHRU KAUL)
JUDGE

July 26, 2022
rps

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