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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4799-2016 (O&M)

Date of Decision: 05.09.2022

Sanjay Sharma and others .... Appellants

Versus

Rajnish Kumar and others .... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Varun Sharma, Advocate for
Mr.Mukesh Yadav, Advocate for the appellants.
Ms. Madhu Sharma, Advocate
for respondent No.3-Insurance Company.

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HARKESH MANUJA, J.

By way of present appeal, the appellants have questioned the adequacy of compensation awarded by the learned Motor Accident Claims Tribunal, Narnaul, for short 'the Tribunal', vide its award dated 11.02.2016.

Brief facts of the case are that, accident in the present case took place on 10.10.2013 causing death of Neeraj involving the offending vehicle i.e. Bus bearing registration No.UP-14AT/0961. The appellants being dependents of the deceased filed a claim petition for grant of compensation along with interest on account of death of said Neeraj.

Learned Tribunal vide its award dated 11.02.2016 recorded a finding on the issue of negligence in favour of the appellants and against respondent No.1. Further, taking the income of deceased to be Rs.10000/- per month, being a salaried person.

Deduction of 50% was made as the deceased was a bachelor. Thus, the annual dependency was taken as Rs.60000/- (Rs.5000/- x 12). Further taking the age of mother of deceased as 44 and that of father as 46, multiplier of 13 was applied and compensation was assessed at Rs.7,80,000/-. A sum of Rs.25000/-was awarded on account of funeral expenses, thus, a total compensation of Rs. 8,05,000/- was awarded to the claimants/appellants. Out of the total amount awarded, 50% was ordered to be deposited as FD in nationalized Bank of the area for a period of 02 years.

In the present appeal, the appellants have sought enhancement of compensation.

It has been vehemently contended by learned counsel for the appellants that the learned Tribunal has committed a grave error while computing the income of the deceased. It is further contended that PW4 (Sh.Harish Bhardwaj) Sales Executive has duly proved the income of the deceased as Rs.1,40,000/- per annum. The salary certificate Ex.PW4/A has been produced by the witness which proves that the deceased was employed as a Manager and drawing annual salary of Rs.1,40,000/-. It is again contended that no enhancement on account of future prospects has been awarded by the learned Tribunal. No amount has been awarded on account of consortium as well. Learned counsel for the appellants also submits that the learned Tribunal has committed an error while applying the multiplier of 13 after considering the age of the parents of the deceased. He further submits that in view of the law settled by the Hon'ble Supreme

Court, compensation should have been assessed by applying multiplier on consideration of the age of the deceased and as such, multiplier of 18 should have been applied in view of the law laid down by the Hon'ble Supreme Court in ***Sarla Verma & Ors vs. Delhi Transport Corporation & Anr. (2009) 6 SCC 121.***

On the other hand, learned counsel for respondent No.3-Insurance Company submits that the monthly income of the deceased, as assessed by the learned Tribunal was just and reasonable. He further contends that the deduction of 50% was rightly made by the learned Tribunal. The compensation awarded admits off no interference by this Court.

After having gone through the paper-book as well as the lower Court record, I am of the considered view that in the facts and circumstances of the present case the learned Tribunal has not been able to appreciate the evidence available on the record in its proper perspective while assessing the monthly income of the deceased correctly.

Learned Tribunal has committed an error while assessing the monthly income of the deceased as Rs.10000/- per month in as much as salary certificate, Ex.PW4/A which has been duly proved by PW4, clearly reveals that the annual salary package of the deceased has been Rs.1,40,000/-, and there appears to be no cogent reason to disbelieve the same. Therefore, the income of the deceased is assessed as Rs.1,40,000/- per annum.

Since the deceased was working as a Manager in Sri Shyama Textiles Private Limited, getting the salary of Rs.1.40 lacs per annum and was aged about 22 years, so future prospects of 40% are to be awarded in view of the judgment of Hon'ble Supreme Court in case titled as **National Insurance Company Ltd. Vs. Pranay Sethi and others,** 2017 (4) RCR (Civil) 1009, wherein it has been held that in case of deceased being self-employed or on a fixed salary, addition of 40% of the established income was to be awarded where the deceased was below the age of 40 years. Relevant paragraph No.61 (iv) is reproduced hereunder:-

> *"61. (iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."*

I also find merit in the contention raised by learned counsel for the appellants to the extent that the multiplier should have been applied by considering the age of the deceased and not that of his parents. In this regard, I find support from the observations made by the Hon'ble Supreme Court in case titled as **Sube Singh and another Vs. Sham Singh (deceased) and others,** Civil Appeal No. 7176 of 2015, decided on 09.02.2018 and the relevant part of the same is reproduced as under:-

"The legal position, however, is no more res integra. In the case of Munna Lal Jain (supra) decided by a three Judge Bench of this Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependents."

Thus applying the aforesaid, compensation has to be calculated by applying the multiplier of 18 instead of 13.

Besides this, applying the principle of law laid down by Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs. Pranay Sethi and others***, 2017(4) RCR (Civil) 1009, the claimants are entitled for Rs.16,500/- as compensation under the head of funeral expenses, loss of consortium (parental) is to be awarded to the tune of Rs.88,000/-/ as there are two dependents and Rs.16,500/- towards loss of estate by applying 10% increase under the conventional heads as well as under the head of consortium (parental) as per the law laid down by Hon'ble Supreme Court in ***N. Jayasree and others Vs. Cholamandalam M.S. General Insurance Company Ltd.***, 2021 (4) RCR (Civil) 642.

In view of the discussions made hereinabove, the appellants are entitled for following enhanced compensation, as detailed in the table given hereunder:-

Sr.No.	*Particulars*	*Amount (Rs.)*
1.	*Annual Income of deceased*	*Rs.1,40,000/-*
2.	*Add 40% of Future prospects*	*Rs.56000/-*
3.	*Total Income*	*Rs.1,96,000/-*
4.	*Deduction (1/2) i.e. 50%*	*Rs.98,000/-*
5.	*Multiplier of 18 as per age of 22 years*	*Rs.17,64,000/-*

	(Rs.98,000 x 18)	
6.	*Funeral Expenses*	*Rs.16,500/-*
7.	*Loss of Consortium*	*Rs.88,000/-*
8.	*Loss of Estate*	*Rs.16,500/-*
	Total Compensation	*Rs.18,85,000/-*
	Amount Awarded by the Tribunal	*Rs.8,05,000/-*
	Enhanced Amount	*Rs.10,80,000/-*

The grant of interest @ 7.5% per annum is not just in view of the facts and circumstances of the present case, therefore, the same is enhanced to 9% per annum on the amount of compensation awarded to them from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claims shall be deducted from the enhanced compensation.

The present appeal is disposed off in the manner, indicated hereinabove.

Pending miscellaneous application(s) if any, shall also stand disposed of.

September 05, 2022 **(HARKESH MANUJA)**
sanjay **JUDGE**

Whether speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*