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

FAO-7717-2014 (O&M)
Decided on : 23.08.2022

Jawahar Singh and others ...... Appellants

Versus

Jitender Singh @ Jeetu and another ...... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashish Gupta, Advocate for the appellants.

Mr. Abhimanyu, Advocate for Mr. Rajesh Lamba, Advocate for respondent No.1.

Ms. Vandana Malhotra, Advocate for the insurance company.

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Manjari Nehru Kaul, J.(Oral)

The claimants are in appeal before this Court to impugn the award dated 22.04.2014 passed by Motor Accident Claims Tribunal, Faridabad (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein the following compensation was assessed and awarded to the appellants-claimants on account of death of their son Sandeep (hereinafter referred to as 'deceased') in an accident, which took place on 24.09.2013:

Sr. No.	*Head*	*Amount*
1	Notional income of the deceased per annum	Rs.30,000/-
2	Multiplier	15
3	Total income (Rs.30,000 x 15)	Rs.4,50,000/-

Sr. No.	*Head*	*Amount*
4	Loss of love and affection, funeral expenses etc.	Rs.50,000/-
	Total compensation	Rs.5,00,000/-

The Tribunal held that the claimants were entitled to receive the aforesaid compensation in equal shares along with interest @ 7.5% p.a. from the date of filing of the petition till its realization, which was to be paid jointly and severally by respondents No.1 and 2.

Learned counsel for the appellants vehemently argued that the deceased was a young boy, aged 11 years 2 month when the accident in question took place, however, the compensation awarded was inadequate and not in consonance with the settled ratio in ***Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121, National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270 and Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333.*** While drawing the attention of this Court to the compensation awarded, learned counsel vehemently argued that not only did the Tribunal err in applying a wrong multiplier of 15 instead of 18 but also erred in not awarding any compensation qua future prospects which in the instant case should have been to the extent of 40%. A prayer, therefore, was made for reassessment of the compensation awarded to the claimants including the compensation awarded under the conventional heads.

Per contra, learned counsel for the respondents while opposing the prayer and submissions made by counsel for the appellants submitted that the compensation awarded was just and in accordance with the settled law, which thus, did not warrant any interference. A prayer was, therefore, made for dismissal of the appeal filed by the injured-claimants.

Heard learned counsel and perused the impugned award passed by the Tribunal.

This Court does not find merit in the submissions of the learned counsel for the appellants that the Tribunal erred in not granting any compensation towards loss of future earnings to the appellants on account of death of deceased, aged 11 years 2 months. The Tribunal has rightly assessed the loss of dependency in view of the judgment of Hon'ble Supreme Court in ***Kishan Gopal and an other vs. Lala and others, 2013(4) RCR (Civil) 276***. However, the compensation under conventional heads is not in consonance with the settled law. The parents and the brother of the deceased deserve to be compensated for loss of filial consortium in the sum of Rs.40,000/- each as per *Pranay Sethi's case(supra)*. The claimants would also be entitled to compensation in the sum of Rs.15,000/- each for loss of estate and for funeral expenses. Since it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years, 10% enhancement qua the above-mentioned conventional heads would have to be made. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate & funeral expenses. Besides this, the claimants, who are parents and brother of the deceased, are entitled to Rs.44,000/- each, for loss of consortium including filial consortium respectively.

The compensation is reassessed and modified as follows:

Sr. No.	***Head***	***Amount***
1	Notional income of the deceased per annum	Rs.30,000/-
2	Multiplier	15
3	Total dependency (Rs.30,000 x 15)	Rs.4,50,000/-
4	Loss of consortium (44,000 x 3)	Rs.1,32,000/-
5	Funeral expenses	Rs.16,500/-
6	Loss of estate	Rs.16,500/-
	Total compensation	Rs.6,15,000/-

In the circumstances, the appellants-claimants are entitled to afore-detailed enhanced compensation of Rs.1,15,000/- (Rs.6,15,000 – Rs.5,00,000) along with interest at the rate of 9% per annum from the date of filing of the claim petition till its actual realization, which shall be paid jointly and severally by the respondents in the same terms and ratio as ordered by the Tribunal vide its judgment dated 24.09.2013.

With the above modifications, the instant appeals stand disposed of.

23.08.2022 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

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