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

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**FAO No. 6238 of 2015 (O & M)
Date of decision : 7.9.2022**

Amarjeet Kaur and another ......Appellants

Vs.

Jaswinder Singh @ Jassu and others ......Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Navmohit Singh, Advocate, for the appellants/applicants

Mr. Satpal Dhamija, Advocate, for respondent No. 3/Insurance co.

TRIBHUVAN DAHIYA, J. (Oral)

CM No. 19708-CII f 2015:

This is an application for condonation of 42 days delay in filing the present appeal.

Notice of the application was issued on 31.3.2016 but no reply has been filed to date.

For the reasons mentioned in the application, the same is allowed. Delay of 42 days in filing the present appeal stands condoned.

FAO No. 6238 of 2015:

1. This appeal has been filed by the appellant/claimants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (in short 'the Tribunal'), vide award dated 27.8.2015, in a motor accident occurred on 5.9.2011.

2. The only argument raised by learned counsel for the appellants is,

the notional income of the deceased, who was about 16 years of age, was assessed on lower side, and needs to be enhanced.

3. The Tribunal while awarding compensation to the appellant/claimants has held that the deceased was about 16 years and 5 months of age at the time of accident, and was a non-earning hand. His notional income was taken to be Rs.15,000/-per annum and by applying multiplier of '18', compensation of Rs.2,70,000/-was assessed for loss of income. Under the heads of future prospects as well as non-pecuniary damages, the claimants were held entitled to get compensation of Rs.75,000/- each respectively. Accordingly, in total, Rs. 4,20,000/- was awarded as compensation with interest @ 7.5% p.a.; liability to pay the awarded amount was held to be of the respondents No.1 to 3 jointly and severally.

4. Learned counsel for the appellants has placed reliance upon the judgment of this Court in **FAO No. 5190 of 2014** titled as ***Seema and another v. Bhim Singh and another*** decided on **26.8.2019**, wherein the facts were similar as those of the instant case. The deceased in above case was of 8 years at the time of accident on 26.8.2019. The notional income of the deceased was assessed to be Rs.50,000/-per month, and based on that appropriate compensation was awarded. The paragraphs No.9 and 10 of the above stated judgment read as under:

> 9. Clause 6 of the second schedule to Section 163-A of the Motor Vehicles Act, 1988 refers to notional income of those persons who had no income prior to the accident, as would be in the case of minor child having no established income. Clause 6 allows notional compensation of Rs.15,000/- per annum to those who had no income prior to accident (non-earning person). However, subsequently in the case of ***Kishan Gopal and another (supra)*** the notional income was enhanced to Rs.30,000/- per annum, with a multiplier of 15 to be applied by relying

upon the principles as settled in ***Sarla Verma vs. Delhi Transport Corporation, (2009) 6 SCC 121.*** However, in the case of ***Puttamma and others vs. K.L. Narayana Reddy and another, 2014(1) RCR (Civil) 443*** it has been observed by the Supreme Court that Second Schedule to Section 163-A of the Act was enacted w.e.f. 14.11.1994 had become redundant and unworkable due to the enhanced cost of living, current rate of inflation and increased life expectancy, however, it was left to the wisdom of the Legislature to make the necessary amendment.

10. Therefore taking the view, that second schedule which was the basis of determining the notional income as per clause 6, pertained to the year 1994 when the cost of living and GDP index allowed a person to survive on a meager amount, the notional income can certainly be increased. With the passage of time, the cost of living has increased substantially. The State Government regularly enhances the minimum wages once in a year or some times twice. Even the Central Government enhances the dearness allowance of its employees after every six months. So, there can be no reason for not enhancing the notional income on the same principle, considering the fact that cost of living has increased many fold since 1994 and buying power of the rupee is diminishing. Taking all these aforesaid factors into account, the notional income of the deceased is enhanced to Rs.50,000/- per month. After applying the multiplier of 15 in terms of the judgment of the Supreme Court in ***Sarla Verma vs. Delhi Transport Corporation(supra)*** the compensation comes to Rs. 7,50,000/-. After adding a sum of Rs.50,000/- under the conventional heads, it comes to Rs. 8,00,000/-.

5. In view of the law laid down as aforesaid, notional income of the deceased who was 16 years and 5 months of age at the time of accident on 5.9.2011, is enhanced to Rs.50,000/-per annum. By applying the multiplier of '18' as per judgment of the Supreme Court in ***Sarla Verma vs. Delhi Transport Corporation,*** **(2009) 6 SCC 121,** the compensation for loss of income to the claimants is assessed as Rs.9 lakhs (50,000 x 18).

6. As a result of above analysis, the appeal is allowed, the award of

the Tribunal dated 27.8.2015 is modified as aforesaid. Resultantly, amount of compensation is enhanced to Rs.10,50,000/- (Rs.9 lakhs plus Rs.75,000/-each on account of future prospectus and non-pecuniary damages). The excess amount of compensation so enhanced shall be paid by the respondents jointly and severally with interest @ 7.5% per annum from the date of filing of the claim petition till its payment in the same ratio as decided by the Tribunal.

(TRIBHUVAN DAHIYA)
JUDGE

7.9.2022
Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No