218 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-8055-2014
Decided on:-27.09.2022

Munni Devi and others ....Appellants.

vs.

Chhattar Pal and others ....Respondents.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jai Singh Yadav, Advocate,
for the appellants.

Mr. Rajbir Singh, Advocate for
Mr. Sanjeev Goyal, Advocate,
for respondent No.3-Insurance Company..

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HARKESH MANUJA J. (Oral)

The appellants-claimants have impugned the award dated 14.05.2014 passed by learned Motor Accident Claims Tribunal, Rewari (for short, "Tribunal") with a prayer for seeking enhancement of compensation.

2. The facts leading to the present case are that one Randhir Singh, aged around 39 years, met with a road accident on 28.02.2012 at around 7:30 p.m. when he was coming from Rajgarh side, while driving motorcycle bearing registration No.HR-36-G/6167. It has been further stated that when deceased-Randhir Singh reached near Rajgarh, vehicle bearing HR-47-B/0348 came from behind and hit the motorcycle of Randhir Singh (deceased) and as a result thereof, he lost his balance and struck against a kikar tree. On account of grievous injuries, Randhir Singh later died. The appellants being claimants/dependents upon the deceased, filed a claim

petition before the learned Tribunal, seeking compensation to the tune of Rs.50 lakhs. The appellants also alleged that the cause of accident was rash and negligent driving of respondent No.2.

3. In the written statement filed at the instance of respondents, the very factum of accident was denied. On appreciation of evidence led by the parties, the learned Tribunal vide its impugned award dated 14.05.2014, recorded a finding in favour of the appellants-claimants to the effect that the accident in question took place on account of rash and negligent driving of offending vehicle, which resulted into the unfortunate death of Randhir Singh. By assessing the annual loss of income @ Rs.50,000/- per annum and applying multiplier of 15, learned Tribunal awarded a sum of Rs.8,75,000/- as compensation including a sum of Rs.1 lakh on account of loss of consortium and Rs.25,000/- on account of funeral expenses to be paid to the appellants-claimants along with interest @ 7.5 % from the date of filing of claim petition till its realization.

4. Learned counsel for the appellants-claimants submits that based on the evidence available on record, although the loss of income/dependency in favour of the appellants-claimants has been determined @ Rs.50,000/- per annum, however, no benefits of future prospects have been awarded to them. He further submits that even the compensation awarded towards conventional heads is on the lower side.

5. Opposing the aforesaid contention, learned counsel for respondent No.3-Insurance Company submits that the appellants-claimants have already been awarded just and sufficient compensation, as such, the impugned award does not warrant any interference.

6. After having heard learned counsel for the parties and gone

through the record, I find merit in the contention raised on behalf of learned counsel for the appellants.

7. In the present case, no dispute has been raised by either of the parties on the point of loss of income/dependency, thus, once the learned Tribunal determined the loss of income/dependency @ Rs.50,000/- per annum in favour of the appellants-claimants, in view of law laid by the Hon'ble Supreme Court in case of ***"National Insurance Company Pvt. Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, benefit of 40% was required to be awarded in favour of the appellants-claimants towards future prospects considering the age of the deceased and also the fact that he was self-employed. Further based on the same judgment, considering the fact that there are 4 claimants, including widow, two minor sons and mother, a sum of Rs.1,76,000/- (Rs.44,000 x 4=) was required to be awarded on account of consortium (towards spousal consortium, parental consortium and filial consortium). Besides it, another sum of Rs.16,500/- should have been awarded in favour of the claimants towards loss of estate, besides it, a sum of Rs.16,500/- in place of Rs.25,000/- towards funeral expenses as well.

8. In view of the findings recorded herein above, the appellants are held entitled for the following enhanced compensation, as detailed in the table given hereunder :-

Sr. No.	**Heads of claim**	**Calculation**
1	Loss of income/dependency, multiplier of 15 as per age of 38 years (50,000x15)	50,000 x 15=7,50,000/-
2	40% of above to be added as future prospects	3,00,000+7,50,000/- =10,50,000/-
3	Consortium (spousal, parental, and filial)	1,76,000/- (44,000X4)
4	Loss of estate	16,500/-
5	Funeral expenses	16,500/- instead of 25,000/-
	Total compensation	12,59,000/-

Sr. No.	Heads of claim	Calculation
	Amount awarded by the Tribunal	8,75,000/-
	Enhanced amount	**3,84,000/-**

9. I further find that the grant of interest @ 7.5% per annum is not just in view of the facts and circumstances of the present case and also as per the observations made by the Hon'ble Supreme Court in **Smt. Supe Devi and others vs. National Insurance Company Limited and other, 2009 (4) SCC 513**, which have even been approved in a subsequent judgment titled as **"Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443**. Accordingly, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claimants shall be deducted from the enhanced compensation.

10. In view of the above, the appeal filed by the claimants is partly allowed in the aforesaid terms.

11. Pending miscellaneous application, if any, stand disposed of.

(HARKESH MANUJA)
JUDGE

27.09.2022
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No