**231 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO-6992-2015 (O&M) and
XOBJC-30-CII-2017
Decided on: 27.05.2022

Reliance General Insurance Co. Ltd. . . . Appellant

Versus

Bedwati and others . . . Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sanjeev Kodan, Advocate
for the appellant-Insurance Company in
FAO No.6992 of 2015.

Mr. Johan Kumar, Advocate
for respondents No.1 to 7 in FAO No.6992 of 2015
and for cross-objector.

Mr. J.S.Hooda, Advocate
for respondents No.8 and 9.

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MANJARI NEHRU KAUL , J. (Oral)

This order shall dispose of FAO No.6992 of 2015 as well as Cross-Objections No.30-CII-2017, as they have arisen from the same award. Facts of the case are taken from FAO No.6992 of 2015.

The instant appeal has been preferred by the Insurance Company against the award dated 15.07.2015, passed by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988, whereby compensation in the sum of Rs.8,75,000/-, was awarded to the claimants-respondents No.1 to 7 on account of the

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death of Shibbu in a road accident, which took place on 27.07.2013.

The claimants/respondents No.1 to 7 in FAO No.6992 of 2015 have also filed cross-objections for enhancement of the compensation awarded by the Tribunal qua deceased Shibbu.

A few facts as pleaded in the claim petition by the claimants/respondents No.1 to 7 may be noticed. On 27.07.2013 at about 5.20 am Shibbu (since deceased) alongwith his wife Bedwati was travelling on a three wheeler from Kokila Ban, District Mathura (UP) to Ballabgarh. Three wheeler was being driven by its driver on the correct side of the road. However, when it reached near toll tax plaza at village Tumasra, Tehsil and District Palwal, another three wheeler bearing registration No.HR-73-0904 (hereinafter referred to as 'the offending vehicle') came from Hodal side being rashly and negligently driven by respondent No.1 and collided with the three wheeler from the rear side, as a result of the collision, three wheeler on which the deceased and his wife were travelling turned turtle. The deceased and his wife sustained multiple injuries all over their persons and the deceased succumbed to his injuries at the spot. FIR No.329 dated 27.07.2013 under Sections 279, 337 and 304-A IPC was registered at Police Station Sadar, Palwal on the statement of the wife of the deceased.

Learned counsel for the Insurance Company submits that the wife of the deceased had come up with contradictory versions about the accident in question. In her first and second statements (Annexures A-3 and A-4) made soon after the accident, she blamed the driver of the three

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wheeler of driving the vehicle in a rash and negligent manner, as a result of which, he lost control over it and further that the owner of the offending vehicle came and told her that the offending vehicle was being driven by his son. On the other hand, in the claim petition, which was filed under Section 166 of Motor Vehicles Act, she came up with a different version and claimed that while she was travelling in a three wheeler, the offending vehicle came and hit their vehicle, as a result of which, the accident in question occurred. Learned counsel submits that it was thus, apparent that the offending vehicle was not involved in the accident in question and had been falsely planted to grab compensation. He further submits that the driver of the offending vehicle was not even holding a valid driving licence at the time of alleged accident.

Learned counsel for the cross-objectors have impugned the award on the ground that the award was inadequate and not in consonance with the ratio of law as laid down by the Supreme Court in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*** and ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333***. Learned counsel submits that the deceased was 50 years of age on the date of accident and hence, he was entitled to compensation towards future prospects @ 25% as per the settled law. He further submits that no compensation for loss of spousal and parental consortium was given to the widow and six children of the deceased respectively. Even qua other conventional heads, the

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compensation needed to be reassessed and enhanced. Learned counsel has strongly controverted the submissions made by the counsel opposite qua the offending vehicle not being involved in the accident in question. Learned counsel submits that the wife of the deceased, who was travelling with him at the time of accident while stepping into the witness box, categorically deposed about the involvement of the offending vehicle in question and there was no reason to discard her testimony. Since she had sustained injuries in the accident, her presence could not be doubted and thus, stood proved. Learned counsel submits that the factum of the offending vehicle being involved in the accident in question also stood proved from the testimony of co-passenger PW-2 Ravinder, who despite being subjected to a thorough and searching cross-examination, categorically deposed about the involvement of the offending vehicle in the accident in question. He still further submits that no doubt in the FIR (Annexure P-1), the registration number of the offending vehicle was not mentioned, however, it had to be appreciated in the background that the wife of the deceased herself had received injuries and thus, could not have been in a fit state of mind after having lost her husband in the accident in question. He submits that it was only after the investigating agency investigated into the complaint made by claimant No.1, they found substance in the same and presented challan before the trial Court.

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

This Court does not find any merit in the submissions made

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by counsel for the appellant-Insurance Company that the offending vehicle had been planted to grab compensation. It is not disputed that the wife of the deceased was travelling along with him when the accident in question took place. Admittedly, the wife of the deceased also sustained multiple injuries. Hence, it is but natural that on account of the accident coupled with the fact of she had lost her husband, she would have been in a state of shock and trauma while getting her statement recorded before the police and thus, would not have given full and complete details of the accident.

Moreover, another co-passenger, who was travelling in the auto-rickshaw, duly corroborated the version of the wife of the deceased when he stepped into the witness box as PW-2. He admittedly was a stranger to both the deceased and his wife and hence, he had no motive much less to grab compensation as argued by the learned counsel for the insurance company, to falsely implicate the offending vehicle in the accident in question.

Coming to the issue of quantum, this Court is of the considered view that the compensation awarded to the claimants needs to be reassessed and modified as per the settled law. Admittedly, the deceased was 50 years of age on the date of accident and hence, the claimants would be entitled to compensation towards future prospects @ 25% only. The Hon'ble Supreme Court in ***Pranay Sethi's case*** *(supra)* has quantified the amount in the sum of Rs. 15,000/- each for loss of

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estate and funeral expenses in addition to Rs. 40,000/- each for loss of spousal and parental consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10% enhancement *qua* the above-mentioned conventional heads. Hence, the amount of compensation under the conventional heads stands modified to Rs. 16,500/- each for loss of estate & funeral expenses respectively. Besides this, the claimants, who are widow and children of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium.

The compensation thus payable to the claimants would be as under:

Sr. No.	***Head***	***Amount***
1	Monthly income	Rs.6,000/-
2	Annual income 12 x 6000/-	Rs.72,000/-
3	Future prospects (25%)	Rs.18,000/-
4	Total income	Rs.90,000/-
5	Deduction 1/5 towards personal expenses	Rs.18,000/-
6	Annual dependency	Rs.90,000/- (-) Rs.18,000/- = Rs.72,000/-
7	Multiplier	13
8	Total dependency (72,000/- x 13)	Rs.9,36,000/-
9	Funeral expenses	16,500/-
10	Loss of love and affection	16,500/-
11	Loss of consortium(spousal and parental) (Rs.44,000 x 7)	Rs.3,08,000/-
12	Total compensation	12,77,000/-

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The claimants are, therefore, held entitled to a total sum of Rs.12,77,000/- as compensation along with interest @ 8% per annum from the date of filing of claim petition till its actual realization, which shall be paid jointly and severally and would be apportioned to the claimants in the same ratio as directed by the learned Tribunal.

With these modifications, the cross-objections stand disposed of, while the appeal filed by the Insurance Company stands dismissed.

27.05.2022 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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