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

-.-

**FAO No. 7110 of 2015 (O&M)**

**Date of Decision : 11.03.2022**

Guddi Devi and Others

...Appellants

Vs.

Mohd. Tahir and Others

...Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

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

Mr. Rajesh. K. Sharma, Advocate for the respondent No.4  
(insurance company)

**ALKA SARIN, J. (Oral)**

Heard through virtual mode.

The present appeal has been filed by the claimants assailing the award dated 17.07.2013 passed by the Motor Accident Claims Tribunal, Nuh (for short the 'Tribunal') whereby the Tribunal has awarded an amount of Rs.9,14,000/-.

In brief the facts relevant to the present *lis* are that the appellants herein are the legal heirs of deceased Prabhu Dayal @ Prabhu Sain, husband of appellant No.1, father of appellant Nos.2 to 4 and, son of appellant No.5. It was stated in the claim petition that the deceased along with appellants and one Sanjay was returning from Delhi and alighted at Ferozepur Jhirka near the rest house for taking meal and was proceeding towards a Dhaba by crossing the road when vehicle No.HR-55-P-9617 (previous No.RJ-11-GA-4974) being driven by respondent No.3 (herein) in a rash and negligent manner came there and struck against him. As a result of the impact, Prabhu Dayal @ Prabhu Sain received

multiple grievous injuries and he was shifted to CHC Ferozepur Jhirka from where he was referred to Government Hospital, Mandi Khera where he eventually succumbed to his injuries. It is further stated that the deceased was a barber by profession and was earning not less than Rs.15,000/- per month. All the claimants were stated to be dependent upon the deceased. On notice, respondent Nos.2 to 4 herein put in appearance.

Respondent No.2 herein filed a written statement taking various preliminary objections regarding the maintainability and locus-standi and concealment of material facts. On merits it was stated that he had sold the vehicle No.RJ-11-GA-4974 (the alleged offending vehicle No.HR-55-P-9617) in favour of respondent No.1 and hence the petition against him was not maintainable.

Respondent No.3 herein, the driver of the vehicle, contested the petition mainly on the ground that the alleged vehicle No.HR-55-P-9617 is not involved in the accident and that he never drove the said vehicle in a rash and negligent manner nor caused any accident. It was further stated that even otherwise, he was holding a valid driving license and the vehicle in question was insured with respondent No.4.

Respondent No.4 herein (the insurance company) also filed a written statement taking various preliminary objections. On merits, it was stated that the claim petition was filed on false and frivolous grounds and there was collusion between respondent Nos.1 to 3. In the alternative, it was pleaded that the driver of the offending vehicle did not have a valid and effective license at the time of the alleged accident. From the pleading of the parties, following issues were framed :

- 1) Whether accident in question resulting in death of Prabhu Dayal @ Prabhu Sain took place on 02.04.2012 at 11.30 p.m, in the area of PS Ferozepur Jhirka, because of rash and negligent driving of vehicle bearing registration No.HR-55-P-9617 and previous No.RJ-11-GA-4974, by its driver, respondent No.3 ? OPP.
- 2) If issue No.1 is proved, whether petitioners are entitled to get compensation. If so, to what amount and from whom ? OPP
- 3) Whether respondent No.3 was not holding a valid and effective driving licence to drive the offending vehicle at the time of accident. If so, to what effect ? OPR-4
- 4) Whether respondents No.1 and 2 have violated the terms and conditions of the insurance policy, as alleged. If so, to what effect ? OPR-3
- 5) Relief.

The Tribunal on the basis of the evidence on the record and pleadings of the parties assessed the income as that of a casual labourer as Rs.6000/- per month in the absence of any proof of income and applied 1/4<sup>th</sup> deduction and a multiplier of 16 and awarded the following compensation :

|                                                                     |                                |
|---------------------------------------------------------------------|--------------------------------|
| Income Per Month                                                    | ₹6,000/-                       |
| 1/4 <sup>th</sup> deduction                                         | ₹15,000/-                      |
| Annual Income                                                       | ₹54,000/-(₹4500x12)            |
| Multiplier 16                                                       | ₹8,64,000/- (₹54000 x 16)      |
| Expenses of Funeral & Last rites to Petitioner No.1/ Appellant No.1 | ₹10,000/-                      |
| Love and Affection                                                  | ₹30,000/-                      |
| Loss of Consortium                                                  | ₹10,000/-                      |
| Total Compensation                                                  | ₹9,14,000/- + 9% Interest P.A. |

Dissatisfied with the amount awarded, the present appeal has been preferred by the claimant-appellants.

Learned counsel for the claimant has contended that no future prospects have been granted and the multiplier of 17 ought to have been applied

as per judgment of Supreme Court passed in *Smt. Sarla Verma Vs. Delhi Transport Corporation & Anr., 2009 (6) SCC 121*. It has further been contended that under the loss of estate also a very meager amount has been awarded and further nothing has been awarded on account of consortium to the claimants as per judgment passed in *Magma General Insurance Co. Ltd Vs. Nanu Ram alias Chuhru Ram & Ors., 2018(18) SCC 130*.

The learned counsel appearing on behalf of the insurance company has vehemently contended that the compensation awarded by the Tribunal is just and proper and there was no scope for further enhancement.

I have heard learned counsel for the parties.

The Tribunal has while awarding the compensation not awarded future prospects. Even the multiplier has wrongly been applied, which ought to have been 17 keeping in mind the age of the deceased. Further, the amount awarded towards consortium is also not in consonance with the law laid down by the Supreme Court.

Keeping in view the law laid down by the Hon’ble Supreme Court in following cases :

- *Sarla Verma Vs. Delhi Transport Corporation, 2009 (3) RCR (Civil) 77;*
- *National Insurance Co. Ltd. Vs. Pranay Sethi and Ors., 2017(16) SCC 680;*
- *Reshma Kumari & Ors. Vs. Madan Mohan and Anr., 2013(9) SCC 65;*
- *Magma General Insurance Co. Ltd Vs. Nanu Ram alias Chuhru Ram & Ors., 2018(4) RCR (Civil) 333,*

I deem it just and proper to award the following compensation:-

|                                 |                          |
|---------------------------------|--------------------------|
| Income Per Month                | ₹6,000/-                 |
| Annual Income                   | ₹72,000/- (₹6,000/- x12) |
| Annual dependency of appellants | ₹54,000/-                |

|                                                                |                                   |
|----------------------------------------------------------------|-----------------------------------|
| after deduction of 1/4 <sup>th</sup> towards personal expenses | (₹72000-₹18,000)/-                |
| Future Prospects @ 40%                                         | ₹75,600/-<br>(₹54,000/-+₹21600/-) |
| Multiplier of 17 (age 30 years)                                | ₹12,85,200/-<br>(₹756,000/-x17)   |
| Funeral Expenses                                               | ₹15,000/-                         |
| Loss of Estate                                                 | ₹15,000/-                         |
| <b><u>Loss of Consortium</u></b>                               |                                   |
| Parental (3 children)                                          | ₹1,20,000/-                       |
| Spousal                                                        | ₹40,000/-                         |
| Filial                                                         | ₹40,000/-                         |
| Total Compensation                                             | ₹15,15,200/-                      |

The enhanced amount of ₹6,01,200/- awarded over and above the amount granted by the Tribunal shall carry an interest @ 9% per annum from the date of the filing of the claim petition till the date of realization.

In view of the above the appeal is allowed and the award passed by the Tribunal stands accordingly modified.

Pending application(s), if any, also stand disposed off.

March 11, 2022  
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(ALKA SARIN)  
JUDGE

NOTE : Whether speaking/non-speaking : Speaking  
Whether reportable : YES/NO