IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.8986 of 2014
Date of Decision: 09.12.2022

Sukhveer Kaur and others

.....Appellants.

Versus

Amarjit Singh and others

.....Respondents.

__CORAM__: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

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Argued by:- Mr. Vivek Suri, Advocate
for the appellants.

Service of notice upon respondents No.1 & 2 dispensed with vide order dated 29.02.2016.

Mr. Amit Kumar Goyal, Advocate
for respondent No.3-insurance company.

__MEENAKSHI I. MEHTA, J.__

Feeling aggrieved and dis-satisfied with the Award dated 22.08.2014 passed by learned Motor Accident Claims Tribunal, Patiala (for short 'the Tribunal'), whereby the appellants-claimants (here-in-after to be referred as 'the claimants') have been awarded the compensation to tune of Rs.9,51,128/-, along-with interest @ 6% per annum, they (claimants) have preferred the instant appeal for seeking the enhancement of the amount of compensation.

2. As per the brief factual-matrix culminating in the filing of the present appeal, the claimants, being the wife, son and mother of Rajinder

Singh respectively, filed the petition against the respondents, who are the respective driver, owner and insurer of the Canter bearing registration No.PB-11AS-9810 (for short 'the offending vehicle'), for claiming a sum of Rs.40 lac from them as compensation, while averring that on the fateful day, i.e 26.07.2013, said Rajender Singh and one Ajit Kumar were going from Rajpura to Banur on the motorcycle bearing registration No.PB-39E-4306 and in the meantime, the offending vehicle, which was being driven by respondent No.1 in a rash and negligent manner at a very high speed and without blowing horn, came from the back side and hit their motorcycle and they sustained injuries in this accident and Rajinder Singh succumbed to the injuries suffered by him.

3. Respondents No.1 and 2 filed their joint written statement and respondent No.3-insurance company filed its separate written statement, contesting the claim of the claimants therein on various grounds and the Tribunal put the parties to the trial by framing the issues on 08.05.2014. After appreciating and evaluating the evidence as led by both parties and hearing their learned counsel, the Tribunal has awarded the compensation to the claimants, as already discussed in the opening para of this judgment, while holding the respondents to be jointly as well as severally liable to pay the same.

4. It is pertinent to mention here that the service of notice upon respondents No.1 & 2 was ordered to be dispensed with by the Co-ordinate Bench with vide the order dated 29.02.2016.

5. I have heard learned counsel for the appellants-claimants as

well as learned counsel for respondent No.3-insurance company in this appeal and have also perused the record carefully.

6. Before adverting to the discussion on the merits of the appeal, it is worth-while to mention here that vide the order dated 30.08.2019, the Co-ordinate Bench had directed the Tribunal to return the finding qua the age of the deceased on the basis of the additional evidence, after affording the opportunity to both the parties for adducing the same and the Tribunal has submitted the report in compliance of the said order and the same is available on the record.

7. Learned counsel for the claimants has contended that the Tribunal had worked out the annual dependency of the claimants to be Rs.84648/- and had considered the age of the deceased as 54 years at time of the accident in question and had, accordingly, applied the multiplier of ‘11’ to calculate the amount of compensation, as payable to the claimants but in the above-referred report, the deceased is held to be 46 years old at that time and it being so, the multiplier of ‘13’ would be applicable to calculate the said amount and moreover, the Tribunal did not award any compensation on the score of the future prospects and the amounts of compensation awarded to the claimants for the funeral expenses and loss of estate and to claimant No.1 towards the loss of consortium, are also quite inadequate whereas claimants No.2 and 3 have not been awarded any compensation at all for the loss of the parental and filial consortium respectively and in these circumstances, the claimants are entitled to the enhancement in the amount of compensation accordingly.

8. Per contra, learned counsel for respondent No.3-insurance company has argued that the claimants have already been awarded sufficient amount as compensation and therefore, they have no occasion to ask for the enhancement of the same.

9. The deceased was employed as a Guard in the Punjab Home Guards and was getting the salary @ Rs.10,580/- per month. PW1 Daljit Singh, Platoon Commander, has categorically admitted during his cross-examination that it was not a regular employment and the Home Guard Volunteers get the wages per day. It being so, an addition of 25% in the monthly salary of the deceased is to be made towards the future prospects, in view of the verdict rendered by the Constitution Bench of Hon'ble the Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and Others 2017(16) SCC 680***. Resultantly, his monthly salary, thus arrived, would be Rs.13,225/- and after deducting 1/3rd of the same towards his personal expenses, the dependency of the claimants comes out to be Rs.8816.66Ps (say Rs.8817/-per month) and the annual dependency would be 8817 x12=Rs.1,05,804/-. As per the report submitted by the Tribunal, the deceased was 46 years old at the relevant time and therefore, in view of the observations made by the Apex Court in ***Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another 2009(6) SCC 121***, the multiplier of '13' would be applicable and when so applied, the amount of compensation would be (1,05,804 x 13) = Rs.13,75,452/-.

10. Further, in view of the observations as made by Hon'ble the Supreme Court in ***National Insurance Company Limited (Supra)***, the

claimants would be entitled to the compensation of Rs.44,000/- each on the count of the loss of spousal, parental and filial consortium respectively and of Rs.16,500/- for the loss of estate and another sum of Rs.16,500/- towards the funeral expenses. It being so, the enhanced amount of compensation, payable to the claimants, would be as under:-

Head	Compensation awarded by the Tribunal	Compensation awarded by this Court	Enhancement
Compensation	Rs.9,31,128/-	Rs. 13,75,452/-	Rs.4,44,324/-
Loss of Consortium	Rs.10,000/- to claimant No.1 -wife only	Rs.44,000/- to each of the three claimants, i.e Rs.44000x3=1,32,000/-	Rs.1,22,000/-
Loss of Estate	Rs.5,000/-	Rs.16,500/-	Rs.11,500/-
Funeral Expenses	Rs.5,000/-	Rs.16,500/-	Rs.11,500/-
Total Enhancement:-			**Rs.5,89,324/-**

11. As a sequel to the fore-going discussion, the appeal in hand is hereby allowed to the effect that the appellants-claimants are entitled to the enhanced compensation of Rs.5,89,324/-, over and above the amount of Rs.9,51,128/- as already awarded to them by the Tribunal and the enhanced amount shall carry the interest @ 7.5% per annum from the date of the filing of the claim petition till its actual realization and shall be payable to them in the same terms as mentioned in the impugned Award.

(MEENAKSHI I. MEHTA)
JUDGE

December 09, 2022
Yag Dutt

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*