IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 6868/2016(O&M)

Date of decision: 05.12.2022

Kashi Ram and others

……….Appellants

Vs.

Sanjay Kumar and others

……….Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.John Kumar, Advocate for the claimants/appellants

Mr. Ram Avtar, Advocate for respondent no.3/Insurance Co.

Mr. Munish Behl,Advocate for proforma respondents 4 & 5/ claimants

Nidhi Gupta,J.

This appeal has been filed by the claimants seeking enhancement of compensation of Rs.11,58,000/- awarded to them by the Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'the Tribunal') in MACT Case No.10/29.4.2015, under Section 166 of the Motor Vehicles Act, 1988. Claimants before the Tribunal were Smt. Ashu, widow of deceased Mohan Chand; Darshika, minor daughter of the deceased; Kashi Ram and Smt.Shyamo, parents of deceased and Prem Chand minor brother of the deceased. Appellants before this Court are parents and minor brother of the deceased.

Learned Tribunal on the basis of the pleadings of the parties and evidence led by them concluded that deceased Mohan Chand had died in a motor vehicular accident that took place on 19.3.2015 due to rash and negligent driving of respondent no.1-Sanjay Kumar while driving offending tractor bearing registration No. HR-50-C-1298, owned by respondent no.2-Om Parkash and insured by respondent no.3-Insurance Company. At the time of the accident the age of the deceased was taken to be 21 years on the basis of post mortem report and also as per school certificate Ex. P3. As there was nothing on the record to prove income of the deceased, his notional income was assessed to be Rs.8000/- per month. As there were 5 claimants, deduction of 1/4th was applied and the annual dependency of the claimants worked out to be Rs.72,000/- i.e. Rs.6000x12. Keeping in view the age of the deceased the Tribunal applied the multiplier of 14 and total dependency was assessed to be Rs.Rs.72,000x14= Rs.10,08,000/-. Rs.20,000/- were awarded as expenses on transportation and last rites; Rs.30,000/- for the loss of love and affection. The widow of the deceased was granted spousal consortium of Rs.1 lac. Accordingly, total compensation was assessed to be Rs.11,58,000/-. The Tribunal returned the finding that the Driving licence of respondent no.1, Ex. PW3/A was valid and effective driving licence at the relevant time and offending vehicle was owned by respondent no.2 vide RC Ex.PW3/B. Accordingly, respondents 1 to 3 were held liable to pay the compensation jointly and severally. Interest @ 7% per annum was awarded from the date of presentation of petition till realization of the amount. The Insurance Company was further directed to deposit the compensation in the bank accounts of the claimants within 15 days from the date of Award and compensation awarded to the minor claimants was directed to be deposited in fixed deposit in their names for a period of two years.

The matter was listed in the National Lok Adalat umpteen times where respondent Insurance company had offered Rs.7.25 lacs over and above the amount already awarded by the Tribunal. However, the efforts for an amicable settlement could not fructify.

Learned counsel for the claimants/appellants submits that the Tribunal is in error as nothing has been awarded towards future prospects as the claimants were entitled to 40% by way of future prospects. It is submitted that the Tribunal is also in error by applying the multiplier of 14 as the deceased being 21-22 years of age, multiplier of 18 ought to have been applied. It is further stated that the parents, widow and minor child were entitled to loss of consortium of Rs.44,000/- each.

Learned counsel for the respondent-Insurance Company is unable to dispute the above submissions as these are as per law laid down in **Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104 ; National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680;** and **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130.**

In view of the above, the present appeal is allowed and the claimants are held entitled to compensation as re-worked hereunder:-

As awarded by the MACT	Enhancement as per latest judgment of Hon'ble Supreme Court in NIC v Pranay Sethi 2017(3) RCR(Civil) 1033
Income-Rs.8000/- (as per minimum wages	Income Rs.8000+3200=11200-2800(1/4th deduction)= 8400x12x18= 18,14,400/-
Age 21 years	Age 21 years
Dependency 1/4th	1/4th
Multiplier 14	Multiplier 18
Loss of future prospects-nil	Loss of future prospects-40%
Loss of Estate Nil	Loss of estate Rs.15,000/-
Funeral expenses-nil	Funeral expenses Rs.15,000/-
Loss of consortium-Rs. 1 lac	Loss of consortium Rs.44000x4 (each claimant) = Rs.1,76,000/-
Loss of love and affection Rs.30,000/-	Loss of love and affection- nil
Total award Rs.11,58,000/-	Total Award Rs.20,20,400/- minus Rs.11.58 awarded by the Tribunal = Rs.8,62,400/- alongwith interest @ 7% per annum from the date of filing of the claim petition till realization.

Ratio of apportionment as well as manner of disbursement of compensation amongst the claimants in the claim petition as determined by the learned Tribunal shall remain the same. Appeal is accordingly disposed of.

(Nidhi Gupta)
Judge

05.12.2022
Joshi

Whether speaking/reasoned **Yes**

Whether reportable **Yes/No**