IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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FAO-1382-2017 (O&M) AND
XOBJC-77-CII-2019
Decided on : 08.04.2022

New India Insurance Company Limited

. . . Appellant(s)

Versus

Smt. Phoolmati and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Rajneesh Malhotra, Advocate
for the appellant-Insurance Company.

Mr. Ashwani Arora, Advoate
for respondents No.1 to 3/cross-objectors/claimants.

Mr. Sandeep Vermani, Advocate
for respondent No.5.

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MANJARI NEHRU KAUL, J. (Oral)

1. This order shall dispose of FAO-1382-2017 and Cross-Objections No. 77-CII-2019, as they arise from the same award.

2. The instant appeal has been preferred by the Insurance Company against the award dated 15.09.2016, passed by the learned Motor Accident Claims Tribunal, Chandigarh (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. 20,53,000/-, was awarded to the claimants/respondents No.1 to 3 & 6 i.e. mother, two minor children and wife of the deceased Santosh, who was stated to be 35 years of age at the time of the accident in question.

3. The claimants/respondents No.1 to 3 have also filed cross-objections claiming compensation in the sum of Rs. 75,00,000/-, by urging that the compensation awarded by the Tribunal is meagre, as the Tribunal

has wrongly assessed the income of the deceased as Rs.8000/- p.m. by treating him as a semi-skilled worker, even though, he was earning Rs.20,000/- p.m.

4. A few facts as pleaded in the claim petition by the claimants/respondents No.1 to 3 may be noticed. On 07.02.2015, at about 03:00 p.m., when Santosh (since deceased) was taking a passenger named Ankush on his three wheeler bearing registration No. CH78(t)-0265, the offending vehicle i.e. Mahindra XUV bearing registration No. CH01-AQ-5252, came at a very fast speed and struck against his three wheeler. Resultantly, the three wheeler turned turtle and Santosh received serious injuries. Santosh succumbed to his injuries later on at PGI, Chandigarh. The Tribunal on the basis of evidence led by the parties, assessed and awarded the following compensation in the sum of Rs.20,53,000/- to the claimants-respondents No.1 to 3 & 6 :-

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.8000/-
2.	Annual Income	12x8000=Rs.96,000/-
3.	Future Prospects (50%)	96000*50/100=48000
4.	Total Annual Income	Rs.1,44,00/-
5.	Deduction 1/4th	Rs.36,000/-
6.	Annual Dependency	Rs.1,08,000/-
7.	Multiplier	16
8.	Total Dependency	Rs.1,08,000x16=Rs.17,28,000/-
9.	Loss of estate	Rs.1,00,000
10.	Loss of love and affection (two minor children)	2,00,000 (Rs.1,00,000/- each)
11.	Funeral Expenses	Rs.25,000/-
12.	Total Compensation	Rs.20,53,000/-

Appellant-Insurance Company was directed to pay the amount of compensation to the claimants-respondents No.1 to 3 & 6 (i.e. mother, two minor children and wife of the deceased), along with interest @ 7.5% per annum, from the date of the claim petition till the date of realization and the same was to be apportioned as 20%, 30%, 30% & 20%, respectively.

Learned counsel for the appellant-Insurance Company has challenged the award passed by the Tribunal primarily on the ground that the Tribunal gravely erred in assessing the income of the deceased as Rs.8000/- p.m. without there being any proof in respect thereof. Besides this, the Tribunal wrongly assessed the future prospects to the tune of 50% instead of 40% and even the compensation awarded under some of the conventional heads required to be re-assessed in the light of the settled law 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 appearing for respondents No.1 to 3/cross-objectors/claimants, on the other hand, have submitted that the monthly income assessed in the sum of Rs. 8000/- by the Tribunal, requried to be enhanced to at least Rs. 20000/- p.m., since the deceased was plying a three wheeler and earning a substantial income. It was also submitted that the deceased was paying a monthly installment in the sum of Rs. 4500/- p.m., towards vehicle loan taken from Canara Bank. Learned counsel further submitted that the interest rate of 7.5% per annum awarded by the Tribunal was also on the lower side and in fact, it should have been @ 12% per annum. Learned counsel has further submitted that the compensation awarded under the conventional heads like loss of estate, funeral expenses and loss of consortium was inadequate and thus, required to be enhanced accordingly.

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

The age of the deceased was 35 years, therefore, in view of the law laid down by the Hon'ble Supreme Court in ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121***, the Tribunal has rightly applied the multiplier of '16'.

Since the deceased was plying a three wheeler, he shall be entitled to be treated as a 'semi skilled' worker. The minimum wages, which were payable to a semi skilled worker, as per notification of the Chandigarh Administration, for the relevant period were Rs.8211/- p.m. The deceased was paying Rs. 4,500/- as monthly installment towards the loan, he had obtained for auto rickshaw. Therefore, it is hard to believe that he was left with only meagre amount of Rs. 4,000/- for his household expenses. Thus, the income of the deceased can safely be taken to be Rs. 10,000/- p.m. Hence, the monthly income of the deceased shall stand enhanced from Rs. 8000/- p.m. to Rs. 10,000/- p.m. It needs to be noticed that the Tribunal has awarded compensation on the higher side under certain other conventional heads, which are not in consonance with the settled law. 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 estate and funeral expenses in addition to Rs. 40,000/- each for loss of 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, as was also re-assessed by the Hon'ble Supreme Court in ***Rasmita Biswal and others Vs. Divisional Manager, National Insurance Co. Ltd. and another : 2022(1) RCR(Civil) 344*** as per the ratio laid down in ***Pranay Sethi's case*** *(supra).* Hence, the amount of compensation under the convention heads stands modified to Rs. 16,500/- each for loss of estate & funeral expenses. Besides this, the claimants, who are mother, two minor children and widow of the deceased, are entitled to Rs.44,000/- each, for loss of filial, parental and spousal consortium, respectively.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	***Head***	***Amount***
1.	Monthly Income	Rs.10,000/-
2.	Annual Income	12 x 10000=Rs.1,20,000/-
3.	Future Prospects (40%)	Rs.120000 x 40/100=Rs.48,000/-
4.	Total Annual Income	Rs.1,68,000/-
5.	Deduction towards personal expenses (1/4th)	Rs.42,000/-
6.	Loss of Annual future earnings	Rs.1,26,000/-
7.	Multiplier	16
8.	Loss of Future earnings	Rs.1,26,000 x 16 = Rs. 20,16,000/-
9.	Loss of consortium (parental to mother, filial to two minor children & spousal to widow)	Rs.44,000/- x 4 = Rs.1,76,000/-
10.	Funeral Expenses	Rs.16,500/-
11.	Loss of Estate	Rs.16,500/-
12.	Total Compensation	Rs.22,25,000/-

The claimants are, therefore, held entitled to a total sum of Rs.22,25,000/- as compensation along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, in terms of the apportionment decided by the Tribunal.

With these modifications, the present appeal as well as cross-objections stand disposed of in the above terms.

(MANJARI NEHRU KAUL)
JUDGE

April 08, 2022

J.Ram

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