IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO-8609-2015
Date of decision: 31.05.2022

Neelam and others .....Appellants

Versus

Hari Ram and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Narender Kajla, Advocate
for the appellants.

Mr. Pankaj Mehta, Advocate
for respondent No.3-insurance company.

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MANJARI NEHRU KAUL, J. (ORAL)

The claimants/appellants (mother and two younger siblings of deceased Jaspreet) are impugning the award dated 10.09.2015 passed by the learned Motor Accidents Claims Tribunal, Hisar (for short, 'the Tribunal') in a claim petition filed under 166 of the Motor Vehicles Act, 1988 wherein the following compensation was granted to them on account of the death of Jaspreet (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 02.07.2014:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.6,000/-
2.	Annual Income	Rs.72,000/-
3.	Deductions towards personal expenses (50%)	Rs.36,000/-
4.	Dependency of the claimants	Rs.36,000/-
5.	Compensation after applying multiplier of 18	Rs.6,48,000/-
6.	Funeral expenses	Rs.25,000/-
7.	Loss of love and affection	Rs.25,000/-
8.	Transport and misc. expenses	Rs.2,000/-
	Total compensation	Rs.7,00,000/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 7% per annum, from the date of the claim petition till the date of realization. Appellant/claimant No.1 was held entitled to 60% of the compensation amount while appellants/claimants No.2 and 3 were held entitled to 20% each of the compensation amount.

As per the claim petition filed by the claimants/appellants, deceased was 18 years of age on the date of the accident in question. He was working as a sweeper and earning Rs.20,000/- per month. The deceased was a bachelor and all the claimants were totally dependent upon him. It was alleged that the accident in question took place on account of the rash and negligent driving of the truck bearing registration No.HR-62-5709 which was being driven by respondent No.1 and which hit the motorcycle of the deceased from behind. As a result of the collision, the deceased fell down, after which he was run over by the offending truck and died.

Learned counsel for the claimants/appellants submits that the learned Tribunal had erred in awarding inadequate and meagre compensation which was not in consonance with the settled law in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333***. While drawing the attention of this Court to the compensation awarded, learned counsel contends that monthly income of the deceased was wrongly assessed at just Rs.6,000/- per month on the basis of the minimum wages notified by the State Government even though he was earning Rs.20,000/- as a sweeper. He further submits that the claimants were fully dependent upon the income of the deceased as appellant/claimant No.1 i.e. his mother was a widow and his younger siblings were 15 years and 13 years old not even working. Hence, deductions towards personal expenses should have been taken at 1/3rd and not 50% as had been wrongly done by the Tribunal. Learned counsel also prayed that the claimants were also entitled to compensation qua future prospects to the extent of 40% besides compensation in the sum of Rs.40,000/- each for loss of filial consortium.

Learned counsel for the respondent No.3-insurance company while opposing the prayer and submissions made by the counsel opposite submits that in the absence of any cogent evidence qua the income of the deceased, the Tribunal had rightly assessed his income as Rs.6,000/- per month by treating him as a labourer. He further submits that correct deductions towards personal expenses to the extent of 50% had been made which did not warrant any interference. Learned counsel still further submits that the compensation awarded qua funeral expenses was on the higher side. He was, however, unable to controvert that the claimants were indeed entitled to compensation qua future prospects and loss of filial consortium.

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

This Court does not concur with the submissions made by learned counsel for the claimants/appellants with respect to the monthly income of the deceased having been assessed on the lower side by the learned Tribunal. Admittedly, no evidence was produced by the claimants qua the income of the deceased. In the circumstances, the learned Tribunal rightly assessed the income of the deceased on the basis of the minimum wages in respect of a labourer notified for the relevant period by the State Government. However, the claimants/appellants are entitled to compensation qua future prospects to the extent of 40% as the deceased was 18 years old, on the date of accident. Since the deceased was a bachelor and was the sole earning member of his large family comprising of his widowed mother and two younger siblings, his personal expenses would be restricted to 1/3rd and not 50% as held by learned Tribunal. Further 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 of law 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 and funeral expenses. Besides this, the claimants, who are mother and two siblings of the deceased, are also held entitled to Rs.44,000/- each, for loss of filial consortium.

The compensation thus payable to the appellants/claimants after reassessment would be as under:-

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.6,000/-
2.	Annual Income	Rs.6,000/- x12 = Rs.72,000/-
3.	Future prospects (40%)	Rs.72,000/- x 40% = Rs.28,800/-
4.	Total annual income	Rs.72,000/-+ Rs.28,800/- = Rs.1,00,800/-
5.	Deductions towards personal expenses (1/3rd)	Rs.1,00,800/- /3 = Rs.33,600/-
6.	Loss of annual future earnings	Rs.1,00,800/- - Rs.33,600/- = Rs.67,200/-
7.	Multiplier	18
8.	Loss of future earnings	Rs.67,200/- x18 = Rs.12,09,600/-
9.	Loss of filial consortium	Rs.44,000/- x3 = Rs.1,32,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/
	Total compensation	Rs.13,74,600/-

The appellants/claimants are, therefore, held entitled to compensation in the sum of Rs.13,74,600/- along with interest @ 8% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondents No.1 to 3 jointly and severally and would be apportioned to the appellants/claimants in the same ratio as directed by learned Tribunal.

With these modifications, the present appeal stands disposed of in the above terms.

31.05.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

VINAY
2022.06.06 12:41
I attest to the accuracy and
authenticity of this order/judgment