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

Cross-Objec. No.95-CII of 2017 in/&
FAO-2556-2017 (O&M)
Decided on : 26.07.2022

New India Assurance Co. Ltd. ...... Appellant

Versus

Raji @ Rajni and others ...... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Pradeep Kumar, Advocate
for the appellant.

Mr. Sandeep Kotla, Advocate
for the claimants-Cross-Objectors.

Mr. Sukhwinder Singh Chatrath, Advocate
for respondents No.5 and 6.

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Manjari Nehru Kaul, J.(Oral)

Instant appeal has been preferred by the appellant-Insurance Company against the award dated 05.12.2016 passed by Motor Accident Claims Tribunal, Fatehabad (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein following compensation was awarded to the claimants on account of the death of Arjun (hereinafter referred to as 'deceased') in a motor vehicular accident on 15.04.2015:-

Sr. No.	***Head***	***Amount***
1	Monthly income	Rs.8,000/-
2	Future prospects (50%)	Rs.4,000/-
3	Annual income (Rs.8,000 + Rs.4,000 x 12)	Rs.1,44,000/-
4	Deduction towards personal expenses (1/4th)	Rs.36,000/-

Sr. No.	***Head***	***Amount***
5	Annual Dependency (Rs.1,44,000-Rs.36,000)	Rs.1,08,000/-
6	Multiplier	16
7	Total dependency (Rs.1,08,000 x 16)	Rs.17,28,000/-
8	Loss of consortium	Rs.1,00,000/-
9	Loss of love and affection (Rs.1,00,000/- each)	Rs.3,00,000/-
10	Funeral expenses	Rs.25,000/-
	Total compensation	Rs.21,53,000/-

The amount of compensation along with interest @ 7.5% p.a. was ordered to be paid jointly and severally by the respondents from the date of filing of petition till its realization.

Cross-objections have also been filed by the claimants on the ground that the compensation awarded by the Tribunal is not only inadequate but not in consonance with the settled law in ***Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121, National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270 and Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333*** and hence, it deserves to be reassessed and modified accordingly.

As per the pleaded case of the claimants, on the fateful day of the accident in question i.e. on 15.04.2015, the deceased was riding his motorcycle on a moderate speed after adhering to the traffic rules. He was followed by his brother Nikku Ram on another motorcycle. When the deceased reached near the canal of Akanwali on Fatehabad-Sirsa Road, a canter bearing registration No.HR-57-2814 (hereinafter referred to as 'offending vehicle') came in a rash and negligent manner driven by its driver came from the opposite side and collided with the motorcycle of the deceased. The deceased fell down on the road and received multiple serious injuries. The driver alongwith the offending vehicle fled away from the spot. The number of the offending vehicle was duly noted by the brother of the deceased Nikku Ram. The deceased was removed to the hospital in the critical condition, however, he succumbed to his injuries. FIR No.220 dated 16.04.2015 under Sections 279 and 304-A IPC was registered.

Learned counsel for the appellants-Insurance Company submits that the offending vehicle was falsely implicated in the accident in question and in fact it was a hit and run case, which had not been appreciated by the Tribunal while passing the impugned award. It is further submitted that had the brother of the deceased actually been present at the spot, he would not have awaited for the police to remove the deceased to the hospital but he would have gone himself without any delay. He still further submits that on the face of it, the vehicle had been planted at the spot by the claimants to grab the compensation. Even on quantum, learned counsel submits that while assessing the income of the deceased, Tribunal had erred in assessing his income at Rs.8,000/- per month, which was higher than the minimum prescribed wages as per the notification of the State Government for the relevant year, which was in fact just Rs.7,600/- per month.

Per contra, learned counsel for respondents No.1 to 4 while opposing the prayer and submissions made by counsel for the appellant submits that enough cogent evidence had been led before the Tribunal to prove the involvement of the offending vehicle in the accident in question, which had resulted in the death of deceased Arjun. It is submitted that the FIR was registered against the driver of the offending vehicle, hence, there was no question of offending vehicle being planted at the spot for grabbing the compensation. It is further submitted that the eyewitness, who stepped into the witness box as PW-2 Nikku Ram gave a vivid account of the manner in which the accident in question had taken place and his testimony had gone unchallenged as the driver of the offending vehicle i.e. respondent No.5 did not even step into the witness box to rebut his evidence.

Heard learned counsel for the parties and perused the case file.

The deceased was 35 years of age on the date of accident. This Court does not find any error in the monthly income of the deceased, which has been assessed by the Tribunal at Rs.8,000/- per month by treating him as an unskilled worker. No doubt, the minimum wages prescribed by the State Government in the case of daily wager for the relevant period was Rs.7,600/- per month, however, the amount assessed in the sum of Rs.8,000/- per month cannot by any stretch of imagination be said to be so exorbitant and much higher than the minimum prescribed wages, which would warrant interference by this Court.

The compensation under conventional heads including compensation towards loss of consortium to the widow of the deceased and for loss of love and affection to the children in the sum of Rs.1 lakh each admittedly is not in consonance with the settled law. The children would be entitled to Rs.40,000/- each for loss of parental consortium as per *Pranay Sethi's case(supra)*. Rs.1 lakh granted to the widow of the deceased for loss of consortium being not in consonance with the settled law would stand reduced to Rs.40,000/-. The claimants would be entitled to Rs.15,000/- each for loss of estate and for funeral expenses, which requires to be modified. Since it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years, 10% enhancement qua the above-mentioned conventional heads would have to be made. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate & funeral expenses. Besides this, the claimants, who are wife and three minor children of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium respectively.

The compensation is reassessed and modified as follows:

Sr. No.	***Head***	***Amount***
1	Monthly income	Rs.8,000/-
2	Future prospects (40%)	Rs.3,200/-
3	Annual income (Rs.8,000 + Rs.3,200 x 12)	Rs.1,34,400/-
4	Deduction towards personal expenses (1/4th)	Rs.33,600/-
5	Annual Dependency (Rs.1,34,400-Rs.33,600)	Rs.1,00,800/-
6	Multiplier	16
7	Total dependency (Rs.1,08,000 x 16)	Rs.16,12,800/-
8	Loss of estate	Rs.16,500/-
9	Funeral expenses	Rs.16,500/-
10	Loss of consortium (Rs.44,000 x 4)	Rs.1,76,000/-
	Total compensation	Rs.18,21,800/-

With the above modifications, the instant appeal and the cross-objections stand disposed of in the same terms and ratio as directed by the Tribunal.

26.07.2022 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

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