**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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(1) **FAO-3191-2017 (O&M)**
Date of decision: 16.11.2022

The New India Assurance Company Ltd. .....Appellant

Versus

Neelu Singh and others .....Respondents

(2) **FAO-6381-2017 (O&M)**
Date of decision: 16.11.2022

Neelu Singh and others .....Appellant

Versus

Raman Batra and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Neeraj Khanna, Advocate
for the appellant in FAO-3191-2017 and
for respondent No.2 in FAO-6381-2017.

Mr. Ashwani Arora, Advocate
for respondents No.1 to 4 in FAO-3191-2017 and
for the appellants in FAO-6381-2017.

None for respondent No.5 in FAO-3191-2017.

Service of respondent No.6 is dispensed with
vide order dated 18.01.2018 in FAO-3191-2017.

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<u>MANJARI NEHRU KAUL, J. (ORAL)</u>

This order shall dispose of the above referred two appeals as both arise out of the same award dated 13.01.2017 passed by the learned Motor Accidents Claims Tribunal, Chandigarh (for short, 'the Tribunal').

FAO-3191-2017 has been preferred by the insurance company whereas FAO-6381-2017 has been filed by the claimants for enhancement of the compensation awarded to them.

A challenge has been laid by the appellant-insurance company in FAO-3191-2017 to the award passed by the Tribunal wherein the following compensation was awarded to the claimants, who are widow and three children of Raj Kishore Singh (hereinafter referred to as 'the deceased') who died in a Motor Vehicular Accident, which took place on 24.07.2016:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.8,000/-
2.	Income after adding future prospects (15%)	Rs.9,200/-
3.	Deduction towards personal and living expenses (1/4th)	Rs.2,300/-
4.	Dependency	Rs.6,900/-
5.	Compensation after applying multiplier of '11'	Rs.6,900x 11 x 12 = Rs.9,10,800/-
6.	Loss of consortium to wife	Rs.1,00,000/-
7.	Funeral and last rites	Rs.25,000/-
8.	Loss of love and affection to children	Rs.1,00,000/-
	Total compensation	Rs.11,35,800/-

Learned counsel for the insurance company has challenged the impugned award passed by the Tribunal under Section 166 of the Motor Vehicles Act, 1988 on the ground that no cogent evidence was led to prove rash and negligent driving on the part of the driver of car No.HR-01-AH-5252 (hereinafter referred to as 'the offending vehicle'). He has vehemently argued that even as per the testimony of PW-2 Saurabh Dubey, alleged eye witness, when the deceased was taking a U-turn, the offending vehicle came and struck the scooter of the deceased from behind as a result of which he fell down on the road and received serious injuries, hence, it was evident that it was the deceased who had been negligent while taking U-turn on a busy road resulting in the accident in question.

Learned counsel for the insurance company has also challenged the impugned order on quantum of compensation awarded by urging that compensation awarded to the claimants is on the higher side and not in consonance with the settled ratio of law in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333*** and ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270***. He has submitted that amount totalling to Rs.2.25 lakhs under conventional heads was on the face of it not in consonance with the settled ratio of law which thus required to be reassessed and modified accordingly.

Per contra, learned counsel appearing for the claimants has vehemently controverted the prayer and submissions made by the counsel for the insurance company by urging that in fact the compensation awarded is on the lower side and requires to be enhanced as admittedly the deceased was 50 years and 7 months on the date of accident and his death. Hence, the multiplier applicable in his case should have been '13' and not '11' which had been erroneously applied by the Tribunal. It was still further submitted that future prospects which had been awarded to the extent of 15% also required to be enhanced to 25%. In support, learned counsel for the claimants has placed reliance upon ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***M.H. Uma Maheshwari and others Vs. United India Insurance Co. Ltd. and another : 2020***

ACJ 1865.

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

Learned counsel for the insurance company had drawn the attention of this Court to the testimony of PW-2 Saurabh Dubey (eye witness) and contended that it was the deceased who had in fact been negligent while taking U-turn on a busy road resulting in the accident in question. However, a perusal of the testimony of PW-2 Saurabh Dubey reveals that he categorically deposed that the offending vehicle came being driven negligently at a fast speed and struck the scooter of the deceased from behind. Therefore, this Court does not find any merit in the submissions of the learned counsel for the insurance company qua the driver of the offending vehicle not being responsible for the accident in question.

Proceeding further, this Court finds force in the submissions made by learned counsel for the claimants that the compensation awarded to the claimants is not in consonance with the settled law. Since the deceased was 50 years and 7 months and had not yet completed the age of 51 years, the correct multiplier applicable in the case in hand would be '13' and not '11' as had been erroneously applied by the learned Tribunal. Once the multiplier applicable in the case in hand would be '13' keeping in view the age of the deceased i.e. 50 years and 7 months, future prospects too shall have to be enhanced accordingly from 15% to 25%.

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 per the ratio laid down in ***Pranay Sethi's case*** *(supra)*. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate and funeral expenses. Besides this, the claimants, who are widow and children of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium respectively.

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

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.8,000/-
2.	Annual Income	Rs.8,000/- x 12 = Rs.96,000/-
3.	Future prospects (25%)	Rs.96,000/- x 25% = Rs.24,000/-
4.	Total annual income	Rs.96,000/- + Rs.24,000/- = Rs.1,20,000/-
5.	Deductions towards personal expenses (1/4th)	Rs.1,20,000/- (/) 4 = Rs.30,000/-
6.	Loss of annual future earnings	Rs.1,20,000/- (-) Rs.30,000/- = Rs.90,000/-
7.	Multiplier	13
8.	Loss of future earnings	Rs.90,000/- x 13 = Rs.11,70,000/-
9.	Loss of consortium	Rs.44,000/- x 4 = Rs.1,76,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/
	Total compensation	Rs.13,79,000/-

The claimants are, therefore, held entitled to a total sum of Rs.13,79,000/- as compensation along with interest @ 8% per annum from the date of filing of claim petition till its actual realization. The compensation amount would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, both the appeals stand disposed of in the above terms.

16.11.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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