IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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FAO-3524-2017 (O&M)
Date of decision: 30.11.2022

Razia and others .....Appellants

Versus

Satnam Singh (since deceased)
through his LRs and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sunil Saharan, Advocate
for the appellant.

Ms. Rajni Rohilla, Advocate for
Mr. Ravi Kumar, Advocate
for LRs of respondent No.1.

Mr. Amrinder Singh Sidhu, Advocate and
Mr. Aman Mittal, Advocate
for respondents No.2 and 3.

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MANJARI NEHRU KAUL, J. (ORAL)

CM-11466-CII-2017

Prayer in the application is for condonation of delay of 352 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed and delay of 352 days in filing the appeal is condoned.

However, it is clarified that the appellants will not be entitled to any interest for the delayed period.

FAO-3524-2017

The claimants are in appeal before this Court to impugn the award dated 09.11.2015 passed by learned Motor Accidents Claims Tribunal, Amritsar (for short, 'the Tribunal') wherein the following compensation was awarded to them on account of death of Dawood

Sabharwal (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 29.10.2013 while he was travelling from Batala to Amritsar in bus bearing registration No.PB-06-E-7409:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.5,000/-
2.	Future Prospects (30%)	Rs.1,500/-
3.	Monthly Income after adding future prospects	Rs.6,500/-
4.	Dependency after deducting personal expenses (1/4th)	Rs.4,875/-
5.	Annual dependency	Rs.58,500/-
6.	Compensation after applying multiplier of '14'	Rs.8,19,000/-
7.	Loss of Consortium to claimant No.1	Rs.1,00,000/-
8.	Loss of Estate	Rs.5,000/-
9.	Funeral expenses	Rs.25,000/-
	Total Compensation	Rs.9,49,000/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 7.5% per annum, from the date of filing of the claim petition till the date of award.

Learned counsel appearing for the appellants-claimants while impugning the compensation awarded has vehemently argued that the deceased was 45 years of age on the date of accident in question and earning Rs.20,000/- per month and hence the Tribunal gravely erred in assessing his monthly income in the sum of Rs.5,000/- by treating the deceased as a labourer. Learned counsel still further argued that the claimants were widow, four children and parents of the deceased who were totally dependent upon him. Hence, the deductions towards personal expenses as per the settled law should have been 1/5th and not 1/4th, which had been erroneously assessed by the Tribunal. It was still further submitted that the Tribunal had not even adequately compensated the claimants under the conventional heads specially for loss of filial and parental consortium.

Per contra, learned counsel appearing for the insurance company while opposing the prayer and submissions made by the counsel opposite submitted that since no cogent evidence had been led by the claimants qua proof of income of the deceased, the Tribunal had not erred in treating him as a labourer and assessing his income at Rs.5,000/- per month. It was still further argued by the learned counsel that the Tribunal had awarded future prospects to the extent of 30% instead of 25%, which was not in consonance with the settled law. It was still further argued that the deductions made to the extent of 1/4th did not warrant any interference as father of the deceased could not be considered to be his dependent and he would have to be excluded from the persons who were dependent on the deceased.

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

This Court does not find any force in the submissions made by the learned counsel for the appellants that the income of the deceased should have been assessed in the sum of Rs.20,000/- per month. The Tribunal rightly treated the deceased as a labourer, however, the income assessed in the sum of Rs.5,000/- per month by it is not as per the minimum wages notified by the State Government in respect of an unskilled worker/labourer for the relevant period which were Rs.6,247/- per month. Hence, the income of the deceased would stand enhanced from Rs.5,000/- to Rs.6,247/- per month.

This Court finds force in the submissions made by the learned counsel for the appellants that since the claimants are seven in number and they were fully dependent upon the deceased, the deductions towards personal expenses should have been to the extent of $1/5^{th}$ and not $1/4^{th}$, as had been erroneously done by the Tribunal.

This Court concurs with the submissions made by the counsel for the insurance company that since the deceased was 45 years of age on the date of accident, as per the settled law, the claimants would be entitled to only 25% towards future prospects and not 30% as granted by the Tribunal.

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 convention heads stands modified to Rs.16,500/- each for loss of estate and funeral expenses. Besides this, the claimants, who are widow, minor children and parents of the deceased, are entitled to Rs.44,000/- each, for loss of spousal, parental and filial consortium respectively.

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

Sr. No.	Head	Amount
1.	Monthly Income	Rs.6,247/-
2.	Annual Income	Rs.6,247/- x 12 = Rs.74,964/-
3.	Future prospects (25%)	Rs.74,964/- x 25% = Rs.18,741/-
4.	Total annual income	Rs.74,964/- + Rs.18,741/- = Rs.93,705/-
5.	Deductions towards personal expenses (1/5th)	Rs.93,705/- (/) 5 = Rs.18,741/-
6.	Loss of annual future earnings	Rs.93,705/- (-) Rs.18,741/- = Rs.74,964/-
7.	Multiplier	14
8.	Loss of future earnings	Rs.74,964/- x 14 = Rs.10,49,496/-
9.	Loss of consortium	Rs.44,000/- x 7 = Rs.3,08,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/
	Total compensation	Rs.13,90,496/- (rounded off to Rs.13,90,500/-)

The claimants are, therefore, held entitled to a total sum of Rs.13,90,500/- as compensation along with interest @ 8% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondents jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

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

30.11.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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