237 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3575-2017
Decided on:-08.09.2022

United Insurance Company Ltd. ....Appellant..

vs.

Sarbjit Kaur and others ....Respondents.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vinod Chaudhri, Advocate,
for the appellants.

Mr. Gourav Goel, Advocate,
for the respondents/claimants.

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HARKESH MANUJA J.

In the present appeal, appellant-Insurance Company has challenged the award dated 23.02.2017 passed by learned Motor Accident Claims Tribunal, Mohali (hereinafter referred to as "Tribunal") on the point of quantum of compensation.

2. Accident in the present case took place on 14.07.2015, wherein, one Sukhvir Singh, expired on account of rash and negligent driving of respondent No.1-Jasvir Singh. At the time of accident, deceased was 20 years of age and a BBA student, in addition, he was also helping his father in the agricultural work.

3. The respondents being claimants/dependents of the deceased filed a claim petition before the learned Tribunal, claiming Rs.40 lacs as compensation. Vide award dated 23.02.2017, a positive finding was recorded in favour of the claimants and against

respondent No.1 (driver of the offending vehicle) on the issue of rash and negligent driving. Further, the learned Tribunal awarded a sum of Rs.16,45,000/- as compensation. The details of the compensation in the tabulated form are given herein below:-

Sr. No.	Heads	Calculation
1	Earnings of deceased	Rs.10,000/- per month
2	50% of above to be added as future prospects	(Rs.10,000/- +Rs.5000)-Rs.15,000/- per month.
3	1/2 of Sr. No.(ii) to be deducted as personal expenses of the deceased	Rs.15,000-7500) =Rs.7500/- per month
4	Compensation after multiplier of '18' is applied	(Rs.7500x12x18)= Rs.16,20,000/-
5	Funeral expenses	Rs.25,000/-
	Total compensation awarded	Rs.16,45,000/-

4. In the present appeal, learned counsel for the appellant-Insurance company has argued that the learned Tribunal has gone wrong while applying multiplier of 18, as the compensation was required to be assessed by applying the multiplier on considering the age of the parents and not that of the deceased. He further submits that even the addition made @ 50% towards future prospects was also on the higher side as the Hon'ble Supreme Court in case titled as ***"National Insurance Company Ltd. vs. Pranay Sethi and others; 2017(4) RCR(Civil) 1009,*** has held that in case of deceased being self-employed or on a fixed salary, addition of 40% of the established income was to be awarded where the deceased was below the age of 40 years. Relevant paragraph No.61 (iv) is reproduced hereunder:-

> *"In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between*

> *the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."*

5. On the other hand learned counsel for the respondents-claimants submits that both the multiplier and the future prospects have been rightly applied by the learned Tribunal in the facts of the present case. He further submits that rather the compensation awarded under the conventional heads was assessed on the lower side in view of law laid down in case of ***Pranay Sethi's*** case (supra). Para 61 (viii) referred by him is reproduced hereunder:-

> *"Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years. "*

6. Learned counsel for the respondents-claimants further relies upon para 13 of judgment passed by the Hon'ble Supreme Court of India in case titled as ***"Jitendra Khimshankar Trivedi vs. Kasam Dand Kumbhar***, reported as 2015(1) RCR (Civil) 828, to contend that though the claimants are not in appeal, however, applying the principle of grant of just compensation amount can be enhanced in an appeal filed by Insurance Company. Para 13 is reproduced here under:-

> "13. *"The tribunal has awarded Rs.2,24,000/- as against the same, claimants have not filed any appeal. As against the award passed*

> *by the tribunal when the claimants have not filed any appeal, the question arises whether the income of the deceased could be increased and compensation could be enhanced. In terms of Section 168 of the Motor Vehicles Act, the courts/tribunals are to pass awards determining the amount of compensation as to be fair and reasonable and accepted by the legal standards. The power of the courts in awarding reasonable compensation was emphasized by this Court in Nagappa vs. Gurudayal Singh & Ors.[3],Oriental Insurance Company Ltd. vs. Mohd. Nasir & Anr. [4], and Ningamma & Anr. vs. United India Insurance Company Ltd.[5]. As against the award passed by the tribunal even though the claimants have not filed any appeal, as it is obligatory on the part of courts/tribunals to award just and reasonable compensation, it is appropriate to increase the compensation."*

7. As regards the first argument raised by learned counsel for the appellant on the issue of multiplier, I find no force therein, in view of the law laid down in ***"Sube Singh and another vs. Sham Singh (deceased) and others, Civil Appeal No.7176 of 2015, decided on 09.02.2018.*** It is well settled that the compensation has to be awarded by applying the multiplier after considering the age of the deceased and not that of the parents/dependents. Relevant extract from para 4 of above referred judgment is reproduced hereunder or reference:-

> *"The legal position, however, is no more res integra. In the case of Munna Lal Jain (supra) decided by a three Judge Bench of this*

> *Court, it is held that multiplier should depend on the age of the deceased and not on the age of the dependents."*

8. However, there is some force in the other arguments raised by learned counsel for the appellant. Since, the deceased in the present case was 20 years of age and was a student of BBA as well as was also helping his father in the agricultural pursuits, the future prospects should have been added @ 40%.

9. I also find substance in the submissions made on behalf of respondents-claimants. Even though no appeal has been preferred on their behalf seeking enhancement of compensation as regards conventional heads, still, considering the fact that the Motor Vehicle Act, 1988 is a beneficial legislation and its main object & purpose is to award just compensation to the accident victims and their dependents/claimants, therefore, the compensation awarded in their favour under the conventional heads needs to be enhanced by awarding Rs.16,500/- on account of loss of estate and Rs.88,000/- to both the claimants as consortium. However, compensation awarded by learned Tribunal on account of 'funeral expenses' was on the higher side i.e. Rs.25,000. Therefore, the same is decreased from Rs.25,000/- to Rs.16,500/-.

10. In view of the reasons recorded herein above, the appeal is hereby partly allowed and the amount of compensation is recalculated as detailed herein below by applying an addition of 40% towards future prospects instead of 50% and by awarding appropriate compensation under the conventional heads:-

Sr. No.	**Heads**	**Calculation**
1	Earnings of deceased	Rs.10,000/- per month
2	40% of above to be added as future prospects	(Rs.10,000/-+Rs.4000)-Rs.14,000/- per month.
3	1/2 of Sr. No.(ii) to be deducted as personal expenses of the deceased	Rs.14,000-7000) =Rs.7000/- per month
4	Compensation after multiplier of '18' is applied	(Rs.7000x12x18)= Rs.15,12,000/-
5	Parental Consortium	Rs.88,000/-
6	Funeral expenses	Rs.16,500/-
7	Loss of estate	Rs.16,500/-
	Total compensation	Rs.16,33,000/-
	Amount awarded by the Tribunal	Rs.16,45,000/-
	Compensation reduced after re-calculation **(16,33,000-16, 45,000)**	Rs.12,000/-

11. Since, there was stay regarding recovery of amount of compensation beyond Rs.7 lacs, therefore, the appellant-Insurance Company is directed to release the compensation amount as per aforesaid re-calculation after deducting the compensation already awarded along with interest @ Rs.9% per annum to the claimants, from the date of institution of claim petition till its realization, within a period of two months. In case, the appellant-insurance company fails to pay the aforesaid compensation along with interest within a period of two months from today, the claimants shall be entitled for interest @ 15% per annum. The remaining conditions of disbursal of amount to the claimants shall remain unaltered.

12. Pending miscellaneous application, if any, stand disposed of.

(HARKESH MANUJA)
JUDGE

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

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I attest to the accuracy and
integrity of this document