IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO-3753-2017 (O&M)
Date of decision: 28.04.2022

Reliance General Insurance Company Ltd. .....Appellant

Versus

Geeta Jain and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanjeev Kodan, Advocate
for the appellant.

Mr. Johan Kumar, Advocate
for respondents No.1 to 5.

None for respondent No.6 despite service.

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MANJARI NEHRU KAUL, J. (ORAL)

The instant appeal has been preferred by the appellant-insurance company to impugn the award dated 07.04.2017 passed by the learned Motor Accidents Claims Tribunal, Faridabad (hereinafter called as 'the Tribunal') in a claim petition filed under Section 164/140 of the Motor Vehicles Act, 1988 by respondents No.1 to 5-claimants on account of death of Vijay Kumar Jain on 04.04.2015. On the basis of material and evidence led, the learned Tribunal awarded the following compensation to respondents No.1 to 5, who are widow, children and father of the deceased:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.27,000/-
2.	30% future prospects	Rs.8,100/-
3.	Income after adding future prospects	Rs.35,100/-

4.	1/4th to be deducted as personal expenses of the deceased	Rs.35,100/- - Rs.8,775/- = Rs.26,325/- per month
5.	Compensation after applying multiplier of 14	Rs.26,325/- x 12 x 14 = Rs.44,22,600/-
6.	Loss of consortium	Rs.1,00,000/-
7.	Expenses incurred on last rites of the deceased	Rs.50,000/-
8.	Compensation towards depriving respondents No.2 to 4 of their guardian	Rs.3,00,000/-
	Total compensation	Rs.48,72,600/-

The amount of compensation was ordered to be paid by the appellant insurance company. Respondent No.1 being widow of the deceased was held entitled to Rs.27,10,928/- whereas respondents No.2 to 4 being the children were held entitled to Rs.10 lakhs each and respondent No.5 being father was held entitled to Rs.4 lakhs.

The brief facts as claimed in the claim petition filed are that on 04.04.2015 when deceased Vijay Kumar Jain was going on his motorcycle bearing registration No.HR-51-AW-9141 on the left side of the road, the offending vehicle i.e. truck bearing registration No.HR-27-J-0665 came, being driven rashly and negligently by respondent No.6 and hit against the motorcycle of the deceased. The deceased fell down, received multiple injuries and died at the spot. An FIR bearing No.219 dated 05.04.2015 under Sections 279 and 304-A IPC was registered in Police Station Mujessar, Faridabad. It was claimed that the deceased, who was 45 years old man, was running a general store and earning Rs.50,000/- per month.

Learned counsel for the appellant *inter alia* contends that the Tribunal fell into error by assessing the income of the deceased as Rs.27,000/- per month. It was submitted that no doubt the deceased was running a general store, however, even after his death there had been no loss of income to respondents No.1 to 5-claimants as the general store was still in existence. It was submitted that in the circumstances, the Tribunal had erred in assessing the income of the deceased at Rs.27,000/- per month on the basis of some income tax returns which had been filed by him prior to his death. It was further submitted that since the deceased was self-employed, the Tribunal yet again erred in granting 30% as future prospects which was not in consonance with the settled law as laid down in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*** and ***Civil Appeal No.9581 of 2018 titled as 'Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram' decided on 18.09.2018***. It was still further submitted that even under the conventional heads the Tribunal had awarded compensation on the higher side which required to be reassessed and scaled down accordingly.

Learned counsel for respondents No.1 to 5 has, however, disputed the submissions made by the counsel opposite and submitted that the claimants were solely dependent upon the deceased, who was running the business of general store. Ever since his death, they had been unable to properly run the business as efficiently as was being run during the lifetime of the deceased. The prayer made for scaling down the monthly income which had been assessed at Rs.27,000/- per month was vehemently opposed by the counsel opposite. He was, however, not able to controvert that the future prospects could not have been assessed at 30% but should have been taken at 25% since the deceased aged 45 years, was self-employed.

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

After hearing the parties this Court does not find any cogent reason to interfere with the monthly income of the deceased which has been assessed by the Tribunal at Rs.27,000/- per month. Admittedly, the deceased was an income tax payee and his income tax returns were also produced before the Tribunal. On account of the untimely death of the deceased, the claimants would have naturally found it difficult to run the business (i.e. the general store) which the deceased had been running for the past many years. No doubt, the general store of the deceased is still in existence but his experience of supervision of the store would be missing and lacking for the respondents No.1 to 5-claimants. The future prospects have, however, been erroneously granted at 30% which would need to be scaled down to 25% as per the settled law since the deceased was 45 years old and was self-employed.

Since respondent No.1 has been awarded Rs.1 lakh for loss of consortium and respondents No.2 to 4 have been awarded Rs.3 lakhs being deprived of their guardian, this Court, therefore, deems it appropriate to reassess the compensation in the following terms:-

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/- for loss of consortium whereas in the instant case the Tribunal has awarded Rs.50,000/- for funeral expenses which is on the higher side and required to be scaled down to Rs.15,000/-. The Tribunal has not granted

Rs.15,000/- towards loss of estate. Still further, it has also been held in ***Pranay Sethi's case (supra)*** that the aforesaid amount would be further subject to 10% enhancement after every three years. Therefore, respondents No.1 to 5-claimants would be entitled to 10% enhancement with respect to the compensation under the conventional heads as was also held and reassessed 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***. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate and funeral expenses and Rs.44,000/- each for loss of consortium.

Resultantly, the compensation awarded by the Tribunal is reassessed as follows:-

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.27,000/-
2.	Annual Income	Rs.3,24,000/-
3.	Future prospects (25%)	Rs.81,000/-
4.	Total Income including future prospects	Rs.4,05,000/-
5.	Deduction towards personal expenses (1/4th)	Rs.1,01,250/-
6.	Loss of annual future earnings	Rs.3,03,750/-
7.	Multiplier	14
8.	Loss of future earnings	Rs.42,52,500/-
9.	Loss of consortium (spousal, parental and filial)	Rs.2,20,000/- (Rs.44,000/- x 5)
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.45,05,500/-

Respondents No.1 to 5-claimants are, therefore, entitled to a total compensation of Rs.45,05,500/- along with interest at the rate of

8% per annum from the date of filing of the claim petition till its actual realization which shall be paid by the appellant insurance company in the same ratio as directed by the learned Tribunal.

With the above modifications, the instant appeal stands disposed of.

28.04.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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