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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 29.11.2022
Pronounced on: 06.12.2022

FAO No.1565 of 2018

Oriental Insurance Company Limited ....Appellant

vs.

Smt. Parvinderjit Kaur and others ....Respondents

FAO No.2159 of 2018

Smt. Parvinderjit Kaur and another ....Appellants

vs.

Harjinder Singh and others ....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. R.K. Bashamboo, Advocate,
for the appellant/ Insurance Co.

Mr. Yogesh Gupta, Advocate,
for the claimants.

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<u>HARKESH MANUJA, J (Oral)</u>

This order of mine shall dispose of two appeals i.e.FAO No.1565 of 2018 and FAO No.2159 of 2018 filed at the instance of Insurance Company and claimants respectively, impugning the award dated 28.08.2017 passed by the Court of learned MACT, Mohali (hereinafter referred to as “the Tribunal”). For convenience, facts are taken from FAO No. 1565 of 2018.

Respondents No.1 & 2-claimants being parents of the deceased, filed a claim petition alleging rash and negligent driving on the part of respondent No.3 involving the offending vehicle i.e. the truck/tipper number PB-46-F-9550. The learned Tribunal vide impugned award dated 28/08/2017 awarded a sum of Rs. 11,59,000/- as compensation payable in favour of respondent No.1 & 2/ claimants along with interest @ 6% per annum from the date of filing the claim petition till its realization (9% in case awarded amount is not paid within 3 months from date of award) after holding respondent No.3 to be rash and negligent while driving the offending vehicle. The aforementioned compensation has been awarded in the following manner:-

Sr.No.	*Particulars*	*Amount (Rs.)*
1.	*Annual Income of deceased (Rs.7,000x12)*	*Rs.84,000/-*
2.	*Add 50% of Future prospects*	*Rs.42,000/-*
3.	*Total Income*	*Rs.1,26,000/-*
4.	*Deduction (1/2nd)*	*Rs.63,000/-*
5.	*Multiplier of 18 as per age of 16 years (Rs.63,000 x 18)*	*Rs.11,34,000/-*
6.	*Funeral Expenses*	*Rs.25,000/-*
	Total Compensation	*Rs.11,59,000/-*

It is the aforesaid award, which has been impugned by way of present appeals. Learned counsel for the appellant/ Insurance Company contends that considering the fact that deceased was a non-earning member, her notional income was considered on the higher side while awarding compensation. He further contends that learned Tribunal erred in taking notional income of the deceased @Rs.84,000/- per annum, instead, it should have been taken as Rs.30,000/- per annum. He again contends that in view of settled proposition of law rendered by the Hon'ble Apex Court in **"*National Insurance Company Ltd. Vs. Pranay Sethi and others*"**, 2017(4) RCR (Civil) 1009, since the age of deceased was 16 years at the time of her death, future prospects should have been awarded @40% instead of @50%.

On the other hand, learned counsel for respondent No.1 & 2-claimants contends that as the deceased was a meritorious student of 10 +1(non-medical) class at the time of her death, notional income should have been assessed at least @ Rs.15,000/- per month. In this regard, he also places reliance upon the judgment of Hon'ble Supreme Courtin the case of **"V. Mekala vs M.Malathi and another",** reported as 2014(2) RCR(Civil) 880. Learned counsel also submits that compensation awarded under the conventional heads is also required to be re-assessed.

Having heard learned counsel for the parties and gone through the paper-book, I am unable to accept the contention raised on behalf of learned counsel for appellant/ Insurance Company on the issue of notional income of deceased. It is very difficult to quantify the notional income of a minor child as it is to a great extent based upon the sentiments and loss of a child can have devastating effect on the family which can be easily visualised and understood. Though, no amount of money could bring back the joy in life of parents of deceased, but Section 168 of Motor Vehicle Act, 1988, provides for just and reasonable compensation to the claimants. In the peculiar facts and circumstances of the present case, wherein the deceased was 16 years old and was a student of 10+1(non-medical) class in International Public School, Kurali, having scored 9.4 (out of 10) grade point in her matric examination being a bright and meritorious student, it is more than clear that had the deceased been alive, she would have certainly contributed substantially to the family by working hard. Further, it would also be incumbent to consider minimum wages applicable in the State of Punjab w.e.f 01.03.2016, which were Rs.7210/- per month at that point of time i.e. higher than notional income assessed by learned Tribunal. Furthermore, in **"V. Mekala's** case (supra), Hon'ble Supreme Court has assessed the notional income of a child studying in 11th standard as Rs.10,000/- per month as she was a brilliant student at the time of accident. In view of the aforesaid reasons, it would be just and reasonable to assess notional income of deceased @ Rs. 10,000/- per month.

Learned counsel for the parties are ad- idem on the issue of future prospects, thus, the same should be reduced to @40%.

Besides this, the claimants are entitled for a sum of Rs.16,500/- as funeral expense (instead of Rs.20,000/-) and a further sum of Rs.16,500/- for loss of estate (not granted by learned Tribunal). Also, loss of filial consortium is to be awarded to the tune of Rs.88,000/- (44,000 X 2) as there are two dependents.

No other argument has been raised.

Thus, in view of the discussion made hereinabove, appellants/ claimants are entitled for the compensation, as detailed in the table given hereunder:-

Sr.No.	*Particulars*	*Amount (Rs.)*
1.	*Annual Income of deceased (Rs.10,000x12)*	*Rs.1,20,000/-*
2.	*Add 40% of Future prospects*	*Rs. 48,000/-*
3.	*Total Income*	*Rs.1,68,000/-*
4.	*Deduction (1/2nd)*	*Rs.84,000/-*
5.	*Multiplier of 18 as per age of 16 years (Rs.84,000 x 18)*	*Rs.15,12,000/-*
6.	*Funeral Expenses*	*Rs.16,500/-*
7.	*Loss of Consortium*	*Rs.88,000/-*
8.	*Loss of estate*	*Rs.16,500/-*
	Total Compensation	*Rs.16,33,000/-*
	Amount Awarded by the Tribunal	*Rs.11,59,000/-*
	Enhanced Amount	*Rs.4,74,000/-*

The grant of interest @6% per annum is not just in view of facts and circumstances of the present case; rather as per the observations made by the Hon'ble Supreme Court in **"Smt. Supe Dei and others Vs. National Insurance Company Limited and other"**, reported as 2009(4) SCC 513, approved in a subsequent judgment titled as **"Puttamma and others Vs. K.L.Narayana Reddy and another"**, reported as 2014 (1) RCR (Civil) 443, interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization.

The present appeals are disposed of in the manner, indicated hereinabove.

Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

Decided on: 06.12.2022
anil

Whether speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*