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

FAO-45-2017 (O&M)

Date of decision:10.11.2022

SBI General Insurance Co. Ltd. Appellant

Versus

Anita Rani and others Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Manmohan, Advocate for the appellant.

Mr. Shakti Mehta, Advocate for
for respondent No.1 to 5.

HARKESH MANUJA, J.

1. Present appeal has been filed by the appellant/ Insurance Company questioning the quantum of compensation awarded by the learned Motor Accident Claims Tribunal, Chandigarh, for short 'the Tribunal', vide its award dated 17.10.2016.

2. Facts in brief are that on 02.12.2015, while deceased Sher Singh was going towards Hallomajra traffic light (via service road of poultry farm chowk) on his motorcycle, he met with an accident involving offending vehicle (tractor trolley bearing no. PB-43-B-3671), being driven by respondent No. 6- driver in a rash and negligent manner. As a result, he suffered multiple grievous injuries and subsequently succumbed to the same. In claim petition filed by respondents No. 1 to 5/ claimants, learned Tribunal having held that accident occurred due to rash and negligent driving of respondent No.6/ driver and awarded the compensation in the following manner :-

Sr.No.	Particulars	Amount (Rs.)
1.	Annual Income of deceased (Rs.18,000x12)	Rs.2,16,000/-
2.	Add 50% of Future prospects	Rs.1,08,000/-
3.	Total Income	Rs.3,24,000/-
4.	Deduction (1/4 th)	Rs.81,000/-
5.	Multiplier of 17 as per age of 29 years (Rs.2,43,000 x 17)	Rs.41,31,000/-
6.	Funeral Expenses	Rs.25,000/-
7.	Loss of Consortium	Rs.1,00,000/-
8.	Loss of love and affection	Rs.2,00,000/-
	Total Compensation	Rs.44,56,000/-

3. Present appeal has been filed by the appellant/ Insurance Company questioning the amount of compensation awarded by learned Tribunal.

4. Learned counsel for the appellant/ Insurance Company 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, and considering the age of deceased to be 29 years at the time of his death, future prospects should have been awarded @40% instead of @50%. He further contends that compensation awarded under the head of 'Love and affection' should be deducted from the total compensation. He also contends that compensation awarded under the head of 'funeral expenses' should also be reduced from Rs.25,000/- to Rs.16,500/-.

5. On the other hand, learned counsel for respondents no. 1 to 5/ claimants contends that compensation awarded under the head of 'loss of consortium' should be appropriately awarded. He also contends that nothing has been awarded on account of 'loss of estate',

therefore, appropriate amount should be awarded under this head as well.

6. Having heard learned counsel for the parties and gone through the paper-book, I am of the considered opinion that in view of **Pranay Sethi's** case (supra), as the age of deceased at the time of accident was 29 years and being self-employed, he should have been awarded future prospects @ 40%. Besides this, the claimants are entitled for Rs.16,500/- each under the head of funeral expense and loss of estate. Further, loss of consortium (filial, parental and spousal) is to be awarded to the tune of Rs.2,20,000/- (44,000 X 5) as there are five dependents.

7. Besides it, compensation awarded under the head of 'loss of love and affection' is liable to be set aside in view of the law laid down by the Hon'ble Supreme Court in case of "**Satinder Kaur @ Satwinder Kaur & Others. Versus United India Insurance Co. Ltd.**" reported as 2020(3) R.C.R Civil 75. Relevant Para 8 of abovementioned judgement is reproduced hereinafter:-

"The Tribunals and High Courts are directed to award compensation for loss of consortium, which is a legitimate conventional head. There is no justification to award compensation towards loss of love and affection as a separate head."

8. No other argument has been raised. Thus, in view of the discussion made hereinabove, respondents no. 1 to 5/ claimants are entitled for the compensation, as detailed in the table given hereunder:-

Sr.No.	Particulars	Amount (Rs.)
1.	Annual Income of deceased (Rs.18,000x12)	Rs.2,16,000/-
2.	Add 40% of Future prospects	Rs.86,400/-
3.	Total Income	Rs.3,02,400/-
4.	Deduction (1/4 th)	Rs.75,600/-
5.	Multiplier of 17 as per age of 29 years (Rs.2,26,800 x 17)	Rs.38,55,600/-
6.	Funeral Expenses	Rs.16,500/-
7.	Loss of Consortium	Rs.2,20,000/-
8.	Loss of estate	Rs.16,500/-
	Total Compensation	Rs. 41,08,600/-
	Amount Awarded by the Tribunal	Rs. 44,56,000/-
	Reduced Amount	Rs.3,47,400/-

9. The grant of interest @ 7.5% per annum is not just in view of the 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**, (2009) (4) SCC 513 approved in a subsequent judgment titled as **Puttamma and others Vs. K.L.Narayana Reddy and another**, 2014 (1) RCR (Civil) 443, the 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.

10. The present appeal is partly allowed and partly dismissed in the manner, indicated hereinabove.

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

November 10, 2022
sanjay

(HARKESH MANUJA)
JUDGE

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