238 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**
(through video conferencing)

FAO-4872-2017 (O&M) with
X-OBJC-179-CII-2017
Decided on : 08.03.2022

New India Assurance Co. Ltd. ..... Appellant

Versus

Kamlesh and others ..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajnish Malhotra, Advocate
for the appellant.

Mr. Sumit Gupta, Advocate
for respondents No.1 and 2.

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Manjari Nehru Kaul, J.(Oral)

This order shall dispose of FAO No.4872 of 2017 and X-Objections No.179 of 2017.

The appellant-Insurance Company is impugning the award dated 03.04.2017 passed by Motor Accidents Claim Tribunal, Karnal vide which the claim petition filed by respondents No.1 and 2 was allowed and respondent No.1 was awarded Rs.16,96,000/- @ 9% interest per annum from the date of filling of petition till its actual realization. The amount awarded by the Tribunal in the sum of Rs.16,96,000/- was assessed as follows:

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Sr. No.	Heads of claim	Amount awarded
1	Income taken per month	Rs.10,520/-
2	Future prospects @ 30% per month	Rs.3,506/-
3	Total income	Rs.14,026/-
4	Deduction 1/3rd towards personal living	Rs.9,351/-
5	Multiplicand (annualized)	Rs.9351 x 12 = Rs.11,2212/-
6	Multiplier	14
7	Total	Rs.15,70,968/-
8	Loss of consortium	Rs.1,00,000/-
9	Funeral expenses	Rs.25,000/-
	Total	**Rs.16,96,000/- (round off Rs.16,95,968/-)**

Learned counsel for the appellant-Insurance Company contended that the Tribunal by wrongly assessing the income of deceased as Rs.10,520/- per month without there being any supportive evidence in the said regard, had given 30% on account of future prospects even though deceased was not in a regular job much less government job. Still further, learned counsel submitted that respondent No.2 i.e. major son of the deceased, was rightly not considered to be his dependent and hence, the dependency of the deceased should have been assessed after deducting ½ expenses on self instead of 1/3rd which had erroneously been done by the Tribunal. He still further submitted that even the multiplier of 14 was wrongly applied instead of 13 as the deceased was 47 years of age. In support of his submissions, learned counsel has placed reliance upon ***National Insurance Co. vs. Pranay Sethi, 2017 SCC 270.***

On being put to notice, learned counsel for respondents No.1 and 2 entered appearance and submitted that in fact the amount of

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compensation awarded by the Tribunal was meager and needed to be enhanced accordingly. He submitted that since the claim petition was filed under Section 166 of Motor Vehicles Act, hence, the multiplier of 20 should have been applied keeping in view the age of deceased, age of claimants and the life span of the family of the deceased. Prayer was also made to award Rs.4 lacs for loss of love and affection.

Heard learned counsel and perused the relevant material on record.

Admittedly, the age of deceased was 47 years on the date of occurrence, hence, the multiplier as per ***Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121*** shall have to be taken as 13 instead of 14, which has been wrongly applied by the learned Tribunal. Coming to the future prospects, the Tribunal yet again erred in awarding 30% which it could not have done as there was no supportive evidence qua the deceased being in a regular job. In the circumstances, the future prospects should have been taken to be 25%. However, the deduction towards personal expenses have been assessed on the lower side at 1/3rd and it should have been 1/2 of the income of the deceased as only respondent No.1 i.e. his widow was found to be dependent on the deceased. Resultantly, the compensation is re-assessed as follows:

Sr. No.	Heads of claim	Amount awarded
1	Income taken per month	Rs.10,520/-
2	Future prospects @ 25% per month	Rs.2,630/-
3	Total income	Rs.13,150/-
4	Deduction i.e. ½ towards personal living	Rs.6,575/-

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Sr. No.	Heads of claim	Amount awarded
5	Multiplicand (annualized)	Rs.6,575 x 12 = Rs.78,900/-
6	Multiplier	13
7	Total	Rs.10,25,700/-
8	Loss of consortium	Rs.1,00,000/-
9	Funeral expenses	Rs.25,000/-
	Total	**Rs.11,50,700/-**

The rate of interest is, however, enhanced to 12% from the date of filing of petition till its realization.

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

(MANJARI NEHRU KAUL)
JUDGE

08.03.2022
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No

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