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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.5781 of 2017 (O&M)
Date of Decision: 22.11.2022

Vidya Devi and another

..... Appellants

Versus

Prithpal Singh and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ram Kumar Saini, Advocate
for the appellants.

Ms. Madhu Sharma, Advocate
for respondent No.3-Insurance Company.

MANJARI NEHRU KAUL J. (Oral)

The claimants are in appeal before this Court against the award dated 07.11.2016 passed by the Motor Accident Claims Tribunal, Kurukshetra, wherein the following compensation was awarded to them on account of death of their son, namely, Arvind @ Raman (hereinafter referred to as 'the deceased'), in a motor vehicular accident which took place on 23.06.2013.

Sr. No.	Heads	Calculation
1	Income	Rs.8715/- per month
2	50% of column (1) deducted as personal and living expenses of deceased	Rs.8715-4357.50 = Rs.4357.50/- per month
3	Annual income of the deceased	Rs.4357.50 X 12 = Rs.52,290/-
4	Compensation after multiplier of 18 is applied	Rs.52,290 X 18 = Rs.9,41,220/-
5	Loss of estate (for parents) @ Rs.1,00,000/- each	Rs.02,00,000/-

6	Funeral expenses & transportation	Rs.00,25,000/-
	Total compensation awarded	**Rs.11,66,220/-**

The respondent-Insurance Company was held liable to pay the amount of compensation to the claimants, along with interest @ 9% per annum, from the date of institution of the claim petition till the realization.

Learned Counsel appearing for the appellants-claimants (hereinafter referred to as 'claimants') submits that the deceased, was 22 years and 09 months old at the time of accident in question. However, while awarding the compensation, the Tribunal had erred in not granting 40% towards future prospects as per the settled ratio of law laid down in "***National Insurance Company Limited v. Pranay Sethi and others*"**; **2017 (4) RCR (Civil) 1009.** A prayer was therefore made for re-assessing the compensation awarded by the Tribunal and modifying the compensation accordingly.

Per contra, learned counsel appearing for respondent No.3-Insurance Company while opposing the prayer and submissions made by learned counsel for the appellants-claimants, submits that a perusal of the compensation awarded reveals that the compensation awarded to claimants under the conventional heads was rather on the higher side and not in consonance with the settled ratio of law, and therefore was liable to be reduced.

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

This Court finds merit in the submissions made by Learned

Counsel for the claimants that the Tribunal had fallen into error by not awarding 40% towards future prospects as per the settled ratio of law laid down in ***Pranay Sethi's case (supra)***. The claimants would thus be entitled to 40% towards future prospects as admittedly their deceased son was aged 22 years and 09 months on the date of accident. Having said that, a perusal of the compensation awarded indicates that the compensation awarded to the claimants with respect to loss of estate in the sum of Rs.1,00,000/- each is exorbitant and contrary to the settled ratio of law.

As per ratio of law laid down in ***Pranay Sethi's case (supra)*** and ***Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others***, **(2018) 18 SCC 130**, the claimants, who are parents of the deceased are entitled for compensation in the sum of Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses in addition to Rs.40,000/- each for loss of filial consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10% enhancement qua the above-mentioned conventional heads as per the ratio laid down in **Pranay Sethi's case** (supra). Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- for loss of estate, Rs.16,500/- for funeral expenses. Besides this, the claimants, are entitled to Rs.44,000/- each, for loss of filial consortium respectively.

The compensation thus payable to the claimants would be as follows:-

Sr. No.	Heads	Calculation
1	Monthly Income	Rs.8715/-
2	50% of column (1) deducted as personal and living expenses of deceased	Rs.8715-4357.50 = Rs.4357.50/- per month
3	Annual income of the deceased	Rs.4357.50 X 12 = Rs.52,290/-
4	Income after addition of future prospects 40%	Rs.52,290+20,916 = Rs.73,206/-
5	Income after multiplier of 18 is applied	Rs.73,206 X 18 = Rs.13,17,708/-
6	Total dependency	Rs.13,17,708/-
7	Loss of filial consortium	(44,000 X 2) = Rs.88,000/-
8	Loss of estate	Rs.16,500/-
9	Funeral expenses	Rs.16,500/-
	Total compensation awarded	**Rs.14,38,708/-**

The claimants are, therefore, held entitled to a total sum of Rs.14,38,708/- as compensation along with interest @ 9% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondent-Insurance Company and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, the instant appeal stands modified and disposed of in the above terms.

(MANJARI NEHRU KAUL)
JUDGE

22.11.2022
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No