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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.3308 of 2018 (O&M)
Date of Decision: 22.11.2022

Palvinder Kaur alias Surinder Kaur

..... Appellant

Versus

Suraj Parkash and another

..... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Rajiv Kumar Saini, Advocate
for the appellant.

<u>MANJARI NEHRU KAUL J. (Oral)</u>

The appellant-claimant is in appeal before this Court against the impugned award dated 22.12.2017 passed by the Motor Accident Claims Tribunal, Karnal, wherein the following compensation was awarded to her on account of death of her son, namely, Baldev Singh (hereinafter referred to as 'the deceased'), in a motor vehicular accident which took place on 04.03.2016.

Sr. No.	Heads	Calculations
1	Total monthly income assessed is	Rs.10,520/- per month
2	40% of (1) above to be added as future prospects	Rs.10520+4208= Rs.14728/- per month.
3	½ of (ii) deducted as personal expenses of the deceased	Rs.7364/- the amount remains Rs.14728(-) Rs.7364=Rs.7364/- per month
4	The assessment of per annum comes to	Rs.7364X12= Rs.88,368/- per annum
5	Compensation after applying multiplier of 18 comes to	Rs.88,368X18= Rs.15,90,624/-

6	Loss of funeral and transportation etc.	Rs.15,000/-
7	Total:	**Rs.16,05,624/-**

Respondents No.1 and 2 are jointly and severally liable to pay the amount of compensation to the appellant-claimant along with interest @ 6% per annum from the date of filing of the petition till its realization but respondent No.2-Insurance company shall indemnify the compensation amount.

Notice of motion.

Mr. Punit Jain, Advocate accepts notice on behalf of respondent No.2 and filed his power of attorney today in the Court and the same is taken on record.

Learned counsel appearing for the appellant-claimant (hereinafter referred to as 'the claimant') submits that the Tribunal while passing the impugned award had failed to appreciate that the deceased was 21 year old man, working as a mason and earning approximately Rs.15,000/- per month. However, the Tribunal had assessed his monthly income at only Rs.10,520/- per month, which was on the lower side and needed to be re-assessed and enhanced accordingly. It was still further urged that the compensation awarded was not in consonance with the settled ratio of law laid down in ***National Insurance Company Limited v. Pranay Sethi and others*****; 2017 (4) RCR (Civil) 1009** and ***Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others***, **(2018) 18 SCC 130,** in as much as the claimant, who is mother of the deceased, was neither given any compensation *qua* loss of filial consortium nor any compensation was awarded for loss of estate.

Per contra, learned counsel appearing for respondent No.2-Insurance Company submitted that in the absence of any evidence led *qua* the avocation or even the income of the deceased as a mason, the Tribunal had rightly assessed his income at Rs.10,520/- per month, as per the minimum wages notified by the State Government in respect of labourers for the relevant period. Learned counsel, however, was not able to controvert the submissions made by the counsel opposite that the compensation awarded to the claimant under the conventional heads was not in consonance with the settled ratio of law laid down in ***National Insurance Company Limited v. Pranay Sethi and others*; 2017 (4) RCR (Civil) 1009** and ***Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others*, (2018) 18 SCC 130**.

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

In the absence of any cogent and convincing evidence led by the claimant *qua* the profession and income of the deceased, the Tribunal rightly treated the deceased as a labourer and assessed his income in the sum of Rs.10,520/- per month as per the minimum wages notified by the State Government in respect of labourer for the relevant period. However, the Tribunal ought to have compensated the claimant for loss of filial consortium in the sum of Rs.40,000/-. Still further, the Tribunal erred in not compensating the claimant for loss of estate in the sum of Rs.15,000/- as per the settled ratio of law laid down in ***Pranay Sethi's case (supra)***.

As per ratio of law laid down in ***National Insurance Company Limited v. Pranay Sethi and others*; 2017 (4) RCR (Civil)**

1009 and ***Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others***, **(2018) 18 SCC 130**, the claimant, who is mother of the deceased is 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/- 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 claimant 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 claimant, is entitled to Rs.44,000/-, for loss of filial consortium.

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

Sr. No.	Heads	Calculations
1	Total monthly income assessed is	Rs.10,520/- per month
2	40% of (1) above to be added as future prospects	Rs.10520+4208= Rs.14728/- per month.
3	½ of (ii) deducted as personal expenses of the deceased	Rs.7364/- the amount remains Rs.14728(-) Rs.7364=Rs.7364/- per month
4	The assessment of per annum comes to	Rs.7364X12= Rs.88,368/- per annum
5	Compensation after applying multiplier of 18 comes to	Rs.88,368X18= Rs.15,90,624/-
6	Loss of dependency	Rs.15,90,624/-
7	Loss of filial consortium	Rs.44,000/-
8	Loss of estate	Rs.16,500/-
9	Loss of funeral expenses	Rs.16,500/-
10	**Total:**	**Rs.16,67,624/-**

The claimant is, therefore, held entitled to a total sum of Rs.16,67,624/- as compensation along with interest @ 7.5% per annum from the date of filing of claim petition till its actual realization, which shall be paid by respondents No.1 and 2 and would be apportioned to the claimant 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