IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

262

(1) **FAO-6597-2017 (O&M)**
Date of decision: 01.12.2022

Reliance General Insurance Company Limited .....Appellant

Versus

Kanta Devi and others .....Respondents

(2) **FAO-708-2018 (O&M)**

Kanta Devi and others .....Appellants

Versus

Mahavir and others .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashwani Talwar, Advocate
for the appellant-ins. co. in FAO-6597-2017 and
for respondent No.3 in FAO-708-2018.

Mr. Pawan Attri, Advocate
for respondents No.1 to 5 in FAO-6597-2017 and
for the appellants in FAO-708-2018.

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MANJARI NEHRU KAUL, J. (ORAL)

This order shall dispose of the above referred two appeals as they arise out of the same accident and the same award.

The insurance company as well as the claimants are in appeal before this Court to impugn the award dated 06.07.2017 passed by the learned Motor Accidents Claims Tribunal, Jind (for short, 'the Tribunal') wherein the following compensation was awarded to the claimants on account of death of Pardeep Kumar (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 03.12.2015:-

Sr. No.	**Head**	**Amount**
1.	Income per annum (after adding 50%) as future prospects	Rs.7,62,780/-
2.	Income after applying 1/4th deduction (on annual income)	Rs.5,72,085/-
3.	Compensation after multiplier of '15'	Rs.Rs.85,81,275/-
4.	Consortium	Rs.1,00,000/-
5.	Funeral expenses	Rs.25,000/-
6.	Compensation	Rs.87,06,275/-
7.	Compensation as per Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006	Rs.61,74,288/-
8	Compensation after deduction financial assistance to the dependents of deceased employees	Rs.25,31,987/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 7.5% per annum, from the date of filing of the claim petition till actual payment.

As per the pleaded case of the claimants, the deceased, aged 36 years, along with his father and a friend Ghanshyam was taking a walk after dinner on 03.12.2015. While the deceased was walking ahead of his father and Ghanshyam, the offending vehicle i.e. a white colour Santro Car bearing registration No.HR-32B-1122 came on the wrong side from the opposite, in a rash and negligent manner driven by respondent-Mahavir Singh and hit the deceased. Resultantly, the deceased fell down and sustained serious injuries. Father of the deceased as well as Ghanshyam rush to the rescue of the deceased, however, the driver of the offending vehicle on seeing the serious condition of the deceased fled away from the spot along with his vehicle. On being shifted to General Hospital, Jind by his father and Ghanshyam, the deceased was declared brought dead. It was claimed that the deceased was employed as a lecturer with the Department of Education of Haryana where he was drawing a salary of Rs.45,000/- per month.

Learned counsel appearing for the insurance company has primarily challenged the impugned award on the ground that the compensation awarded to the claimants was exorbitant and not in consonance with the settled ratio of law in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270.*** It was submitted that the Tribunal erred in not deducting taxes from the monthly income of the deceased. It was also submitted that under the conventional heads like funeral expenses, the compensation awarded was on the higher side. A prayer was, therefore, made to scale down the compensation awarded accordingly.

Per contra, learned counsel for the claimants while opposing the prayer and submissions made by the counsel opposite has submitted that as per the salary slip (Ex.P1), the deceased was drawing a salary in the sum of Rs.44,812/- per month, however, the Tribunal had erred in deducting an amount of Rs.1,935/- towards the HRA and Rs.500/- towards M.A. which was not in consonance with the settled law. It was prayed that since the deceased was drawing a salary of Rs.44,812/-, the monthly income should have been assessed as such. The counsel also opposed the prayer made by the counsel opposite qua the deductions of taxes. It was submitted that it was a matter of record which fact stood duly proved from Ex.P1 i.e. the salary certificate as well as from the testimony of PW3 Darshan Singh, Clerk, Govt. Senior Secondary School, Khanda Kheri, District Hisar, that the deceased did not fall within the taxable bracket and hence there was no question of deducting any taxes and only thereafter assessing the income of the deceased. Learned counsel while inviting the attention of this Court to the compensation awarded prayed that the claimants be awarded compensation for loss of spousal/parental/filial consortium as the claimants were widow, two minor children and parents of the deceased respectively. It was also submitted that no compensation had been awarded for loss of estate which too ought to have been awarded to the claimants.

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

This Court finds merit in the submissions made by the counsel for the insurance company that the Tribunal erred in not deducting taxes from the salary of the deceased as admittedly the income of the deceased fell in the taxable bracket for the relevant year. The said fact also stands corroborated from the salary slip of the deceased (Ex.P1). This Court at the same time finds force in the submissions made by the counsel for the claimants also that the salary of the deceased was Rs.44,812/- and the Tribunal had erred in deducting HRA and MA in the sum of Rs.1,935/- and Rs.500/- respectively as no deductions other than income tax, if any, can be made from the gross salary of the deceased. The monthly income of the deceased ought to have been assessed at Rs.44,812/- after including the HRA and MA.

The Hon'ble Supreme Court in ***Pranay Sethi's case*** *(supra)* has quantified the amount in the sum of Rs.15,000/- each for loss of estate and funeral expenses in addition to Rs.40,000/- each for loss of 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/- each for loss of estate and funeral expenses. Besides this, the claimants, who are widow, two minor children and parents of the deceased, are entitled to Rs.44,000/- each, for loss of spousal, parental and filial consortium respectively.

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

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.44,812/-
2.	Annual Income	Rs.44,812/- x 12 = Rs.5,37,744/-
3.	Total income after deduction of Income Tax (Rs.25,000/- + 20% of amount exceeding Rs.5 lakhs)	Rs.5,05,195/-
4.	Future prospects (50%)	Rs.5,05,195/- x 50% = Rs.2,52,598/-
5.	Total annual income	Rs.5,05,195/- + Rs.2,52,598/- = Rs.7,57,793/-
6.	Deductions towards personal expenses (1/4th)	Rs.7,57,793/- (/) 4 = Rs.1,89,448/-

7.	Loss of annual future earnings	Rs.7,57,793/- (-) Rs.1,89,448/- = Rs.5,68,345/-
8.	Multiplier	15
9.	Loss of future earnings	Rs.5,68,345/- x 15 = Rs.85,25,175/-
10.	Loss of consortium	Rs.44,000/- x 5 = Rs.2,20,000/-
11.	Funeral expenses	Rs.16,500/-
12.	Loss of estate	Rs.16,500/-
13.	Total dependency	Rs.87,78,175/-
14.	Deductions as per Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006	Rs.61,74,288/-
	Total compensation	Rs.26,03,887/-

The claimants are, therefore, held entitled to a total sum of Rs.26,03,887/- 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 the respondents in FAO-708-2018 jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

Accordingly, both the appeals stand disposed of in the above terms.

01.12.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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