IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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FAO-490-2018
Date of decision: 22.09.2022

Pushpa Devi and others .....Appellants

Versus

Gurbachan Singh and another .....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Sanjiv Patiyal, Advocate
for the appellants.

Mr. Punit Jain, Advocate
for respondent No.2-insurance company.

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MANJARI NEHRU KAUL, J. (ORAL)

The claimants/appellants (parents and brother of deceased Happy Chauhan) are impugning the award dated 13.07.2017 passed by the learned Motor Accidents Claims Tribunal, Chandigarh (for short, 'the Tribunal') in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 wherein the following compensation was awarded to them on account of death of Happy Chauhan (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 10.10.2015:-

Sr. No.	Head	Amount
1.	Monthly Income	Rs.7,000/-
2.	Deduction towards personal and living expenses (50%)	Rs.3,500/-
3.	Annual dependency of the claimants	Rs.42,000/-
4.	Loss of dependency after applying multiplier of '18'	Rs.7,56,000/-
5.	Funeral expenses	Rs.25,000/-
	Total Compensation	Rs.7,81,000/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 6% per annum, from the date of filing of the claim petition. The appellants/claimants were held entitled to the amount of compensation in equal shares.

Learned counsel for the appellants submitted that the deceased aged 23 years was a diploma holder in computer engineering. On 10.10.2015 at 03:00 P.M. while he was going on a motorcycle from Chandigarh to Nalagarh, offending vehicle i.e. tractor bearing registration No.PB-12W-0211 came in a rash and negligent manner driven by respondent No.1 and collided with the motorcycle of the deceased as a result of which he received serious injuries. Though he was referred to PGI, Chandigarh, however, he succumbed to his injuries on 19.10.2015. While drawing the attention of this Court to the compensation awarded, it was submitted that the learned Tribunal failed to appreciate that not only was the deceased a diploma holder in computer engineering but was also pursuing a degree in computer engineering hence the Tribunal gravely erred in assessing his income as only Rs.7,000/- per month. It was submitted that the minimum salary which even a diploma holder in computer engineering these days takes home is not less than Rs.15,000/- per month. Learned counsel further submitted that the Tribunal did not even grant any compensation with respect to future prospects. He also argued that under the conventional heads the compensation awarded was contrary to the settled ratio of law laid down in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270; Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr. : (2009) 6 SCC 121*** and ***Magma General Insurance Co. Ltd. Vs. Nanu***

Ram alias Chuhru Ram and others, 2018(4) RCR (Civil) 333.

Per contra, learned counsel for respondent No.3-insurance company submitted that the compensation awarded was adequate and just. He submitted that the Tribunal had not committed any error while assessing the monthly income of the deceased in the sum of Rs.7,000/- as the minimum wages prescribed was between Rs.5,000/- and Rs.7,000/- by the Government for the relevant period and hence it did not warrant any interference.

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

This Court has no hesitation in concurring with the submissions made by learned counsel for the appellants that since the deceased was a 23 year old boy holding a diploma in computer engineering, in addition to pursuing a degree in computer engineering, the claimants ought to have been compensated in the sum of Rs.10,000/- per month. It goes without saying that being a diploma holder in computer engineering, the deceased would have drawn a salary of at least Rs.10,000/- per month. Accordingly, monthly income of the deceased deserves to be reassessed as Rs.10,000/-. Still further, since the deceased was 23 years of age, the appellants/claimants would also be entitled to addition of 40% to the income of the deceased towards future prospects as per the settled law. The claimants have not been compensated for loss of filial and parental consortium. 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 parents and brother of the deceased, are entitled to Rs.44,000/- each, for loss of parental and filial consortium respectively.

The compensation thus payable to the claimants is reassessed and modified as follows:-

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs.10,000/-
2.	Annual Income	Rs.10,000/- x 12 = Rs.1,20,000/-
3.	Future prospects (40%)	Rs.1,20,000/- x 40% = Rs.48,000/-
4.	Total annual income	Rs.1,20,000/- + Rs.48,000/- = Rs.1,68,000/-
5.	Deductions towards personal expenses (50%)	Rs.1,68,000/- (/) 2 = Rs.84,000/-
6.	Loss of annual future earnings	Rs.1,68,000/- (-) Rs.84,000/- = Rs.84,000/-
7.	Multiplier	18
8.	Loss of future earnings	Rs.84,000/- x 18 = Rs.15,12,000/-
9.	Loss of consortium	Rs.44,000/- x 3 = Rs.1,32,000/-
10.	Funeral expenses	Rs.16,500/-
11.	Loss of estate	Rs.16,500/-
	Total compensation	Rs.16,77,000/-

The claimants are, therefore, held entitled to a total sum of Rs.16,77,000/- as compensation along with interest @ 8% per annum from the date of filing of claim petition till its actual realization, which shall be paid by the respondents jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

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

22.09.2022 **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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