**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-5502-2018 (O&M)

Reserved on:14.12.2022

DATE OF PRONOUNCEMENT: 20.12.2022

Rajwinder Singh ………..…Appellant

Versus

Lekh Raj & others ……..…Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Aayush Arora, Advocate,
for the appellant.

Mr. Vinod Gupta, Advocate,
for respondent No.3

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HARKESH MANUJA, J.

CM-18593-CII-2018:-

This is an application seeking condonation of delay of 62 days in filing the appeal.

For the reasons mentioned in the application, which is supported by an affidavit, sufficient cause has been shown for condoning the delay, thus, the same is allowed and delay of 62 days in filing the appeal is condoned.

Main Case:-

Present appeal lays challenge to award dated 13.12.2017 passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (in brevity, 'the Tribunal'), whereby compensation of Rs.2,52,500/- has been awarded to the appellant/ claimant along with interest @ 7.5% per annum.

On account of death of deceased Arshdeep Singh in road accident on 28.09.2016, a claim petition was filed before the learned Tribunal in which it was held by the learned Tribunal that accident was caused due to rash and negligent driving of the respondent No. 1/ driver. As the deceased was student and was not earning, learned Tribunal assessed his notional income as Rs.15,000/- per annum and awarded compensation in the following manner-

S.No	Heads of Claim	Amount (in Rs)
1.	Loss of dependency	Rs.1,27,500/-
2.	Future prospects	Rs.1,00,000/-
3.	Funeral expenses	Rs.5,000/-
4.	Loss of Estate	Rs.5,000/-
3.	Loss of love and affection	Rs.15,000/-
	Total	Rs. 2,52,500/-

It is the said award dated 13.12.2017 which has been challenged by way of present appeal, praying for enhancement of compensation.

Learned counsel for the appellants contends that notional income as assessed by learned Tribunal is extremely on the lower side considering the fact that deceased was in B.B.A. 2nd year and duly pursuing his studies. Apart from that the deceased also filled forms of police recruitment of different States and was also assisting his father in agriculture work. He further contends that future prospects have also not been appropriately awarded and the compensation awarded under other conventional heads is also on lower side.

On the other hand, learned counsel for respondent No.3-Insurance Company submits that the appellants have already been awarded just and reasonable compensation and as such the award warrants no interference.

I have heard learned counsel for the parties and gone through the paper book. I find force in the argument raised by the learning counsel for the appellants that even if deceased was a student and not an earning member, his income assessed at Rs.15,000/- per annum is extremely on lower side. There are multiple factors which are supposed to be looked into by learned Tribunal while assessing the notional income. This Hon'ble High Court in FAO 8341-2015 titled as "**Smt. Saraswati Panwar and another vs. Yashanpreet Singh and Ors**", has upheld the income of the deceased assessed as per minimum wages, for a student of B.Tech. Similarly,Hon'ble Apex Court in 2018(1)PLR 419 titles as **"Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd and Others"**, has taken the income of 20 years old who was pursuing C.A as 6,000/-.

In the present case, deceased who was pursuing his studies in B.B.A. and his efforts to fill the form of police forces shows that he was trying to get recruited into the disciplined forces and even cleared the physical proficiency test of Punjab police as per the statements of claimants submitted on record vide affidavits as CW1/A,CW2/A and CW3/A. Though, merely filling the form does not mean that he would have been successful through the recruitment process in all probabilities, however, his efforts and physical fitness show that he would have earned at least equal to the minimum wages of a semi-skilled worker as applicable in the month of September, 2016 which was approximately Rs.8,238/- per month and therefore, his income could safely be assessed at Rs. 8,200/- per month. As the deceased was unmarried, deduction on account of personal expenses @50% would be appropriate. Further, in view of ***National Insurance Company Ltd. Vs. Pranay Sethi and others***, 2017(4) RCR (Civil) 1009, it cannot be denied that the future prospect should be awarded @ 40%.

In view of judgment of Hon'ble Apex Court in ***Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another***, 2009 (3) RCR (Civil) 77, and ***Pranay Sethi's case*** (supra), compensation awarded under conventional heads is also required to be reassessed. Claimants are entitled for Rs.16,500/- as compensation under the head of funeral expenses and Rs.16,500/- towards loss of estate by applying 10% increase under the conventional heads. Loss of consortium is to be awarded to the tune of Rs.44,000/- x 5 (Rs.2,20,000/-) as it has to be awarded to all the claimants in claim petition as all of them happen to be in very close relation with deceased.

In view of what has been stated hereinabove, the appellants/claimants shall be entitled for the grant of following compensation:-

Sr.No.	***Nature***	***Amount in Rupees***
1.	*Annual Income of deceased*	*Rs.98,400/-*
2.	*Add 40% of Future prospects*	*Rs.39,360/-*
3	*Total Income (Rs.98,400/- + Rs.39,360)*	*Rs.1,37,760 /-*
4.	*Deduction (50%)*	*Rs.68,880/-*
5.	*Multiplier of 18 as per age of 21 years (Rs.68,880 /- X 18)*	*Rs.12,39,840/-*
7.	*Funeral Expenses*	*Rs.16,500/-*
8.	*Loss of Consortium (Rs.44000x5)*	*Rs.2,20,000/-*
9.	*Loss of Estate*	*Rs.16,500/-*
	Total Compensation	*Rs.14,92,840/-*
	Amount Awarded by the Tribunal	*Rs.2,52,500/-*
	Enhanced Amount	*Rs.12,40,340/-*

The grant of interest @ 7.5% per annum is not just in view of the facts and circumstances of the present case; rather as per the observations made by Hon'ble the Supreme Court in case of ***Smt. Supe Dei and others Vs. National Insurance Company Limited and other***,(2009) (4) SCC 513 approved in a subsequent judgment in case of ***Puttamma and others Vs. K.L. Narayana Reddy and another***, 2014 (1) RCR (Civil) 443, the interest needs to be enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claims shall be deducted from the enhanced compensation.

Disposed off in the above terms.

Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

December 20, 2022
sanjay

Whether speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*