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

Decided on : 29.07.2022

FAO-6589-2018 (O&M)

Suman and another ...... Appellants

Versus

Gurtej Singh and others ...... Respondents

FAO-406-2019 (O&M)

Avtar Singh and others ...... Appellants

Versus

Gurtej Singh and others ...... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.S.Cooner, Advocate
for the appellants in FAO No.6589 of 2018.

Mr. Rishav Jain, Advocate
for the appellants in FAO No.406 of 2019.

Mr. Vinod Gupta, Advocate
for the insurance company.

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Manjari Nehru Kaul, J.(Oral)

CM-22949-CII-2018 in FAO-6589-2018

Application is allowed as prayed for and the delay of 133 days in filing the appeal is condoned.

CM-1892-CII-2019 in FAO-406-2019

Application is allowed as prayed for and the delay of 192 days in filing the appeal is condoned.

Main case

This order shall dispose of two appeals i.e. FAO No.6589 of 2018 and FAO No.406 of 2019 as both of them have been filed against the

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award dated 03.01.2018 passed by the Motor Accident Claims Tribunal, Patiala Brief facts of the case are taken from FAO No.6589 of 2018.

Instant appeal has been preferred by the appellants-claimants against the award dated 03.01.2018 passed by Motor Accident Claims Tribunal, Patiala (hereinafter called as 'the Tribunal') in the claim petition under Section 166 of Motor Vehicles Act wherein following compensation was awarded to the claimants on account of the death of Rajwinder Singh (hereinafter referred to as 'deceased') in a motor vehicular accident on 23.03.2017:-

Sr. No.	***Head***	***Amount***
1	Monthly income	Rs.8,000/-
2	Future prospects (40%)	Rs.3,200/-
3	Annual income (Rs.8,000 + Rs.3,200 x 12)	Rs.1,34,400/-
4	Deduction towards personal expenses ($1/4^{th}$)	Rs.33,600/-
5	Annual Dependency (Rs.1,34,400-Rs.33,600)	Rs.1,00,800/-
6	Multiplier	18
7	Total dependency (Rs.1,00,800 x 18)	Rs.18,14,400/-
8	Loss of consortium	Rs.40,000/-
9	Funeral expenses	Rs.15,000/-
10	Loss of estate	Rs.15,000/-
	Total compensation	Rs.18,84,400/-

The amount of compensation along with interest @ 6% p.a. was ordered to be paid jointly and severally by the respondents from the date of filing of petition till its realization.

As per the pleaded case of the claimants, on the fateful day of the accident in question i.e. on 23.03.2017, the deceased was coming back to his house on his motorcycle. He was riding his motorcycle on a moderate speed after adhering to the traffic rules. He was followed by his father Avtar Singh

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on another motorcycle. When the deceased reached near Happy Chicken, Bhadson Road, Patiala a bus bearing registration No.PB-11-BU-4486 (hereinafter referred to as 'offending vehicle') driven by its driver in a rash and negligent manner came from the back side and hit against the motorcycle of the deceased. Resultantly, the deceased fell down on the road and after being crushed under the rear tyre of the offending vehicle died at the spot. FIR No.42 dated 23.02.2017 under Sections 279 and 304-A IPC was registered.

Learned counsel for the appellants-claimants submits that admittedly the deceased Rajwinder Singh was 21 years of age on the date of accident. He submits that while assessing the income of the deceased, the Tribunal fell into error by treating him as an unskilled labourer and assessing his income at Rs.8,000/- per month. He further submits that since the deceased was running a cycle repair shop, his income should have thus, been assessed at, at least Rs.10,000/- per month. He still further submits that the compensation awarded was not in consonance with the settled law in ***Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr., (2009) 6 SCC 121, National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270 and Magma General Insurance Co. Ltd. vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333.*** Further more, learned counsel submits that no compensation under the conventional heads was awarded to the claimants and hence, it deserves to be reassessed and modified accordingly.

Learned counsel for the Insurance Company submits that the instant claim petition is not maintainable as driver of the offending vehicle was not holding valid and legal driving license and route permit etc. at the time of alleged accident and hence, he had violated the terms and conditions of the Insurance Policy. Even on quantum, learned counsel submits that while

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assessing the income of the deceased, Tribunal had erred in assessing his income at Rs.8,000/- per month, which was higher than the minimum prescribed wages as per the notification of the State Government for the relevant year, which was in fact just Rs.7,600/- per month.

Heard learned counsel for the parties and perused the case file.

The deceased was 21 years of age on the date of accident. This Court does not find any error in the monthly income of the deceased, which has been assessed by the Tribunal at Rs.8,000/- per month by treating him as an unskilled worker. No doubt, the minimum wages prescribed by the State Government in the case of daily wager for the relevant period was Rs.7,600/- per month, however, the amount assessed in the sum of Rs.8,000/- per month cannot by any stretch of imagination be said to be so exorbitant and much higher than the minimum prescribed wages, which would warrant interference by this Court.

The compensation under conventional heads is not in consonance with the settled law. The parents, minor child and sister of the deceased deserve to be compensated for loss of parental and filial consortium respectively in the sum of Rs.40,000/- each as per *Pranay Sethi's case(supra)*. The claimants would also be entitled to compensation in the sum of Rs.15,000/- each for loss of estate and for funeral expenses. Since it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years, 10% enhancement qua the above-mentioned conventional heads would have to be made. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate & funeral expenses. Besides this, the claimants, who are wife, minor child, parents and sister of the deceased, are

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entitled to Rs.44,000/- each, for loss of consortium including parental and filial consortium respectively.

The compensation is reassessed and modified as follows:

Sr. No.	***Head***	***Amount***
1	Monthly income	Rs.8,000/-
2	Future prospects (40%)	Rs.3,200/-
3	Annual income (Rs.8,000 + Rs.3,200 x 12)	Rs.1,34,400/-
4	Deduction towards personal expenses (1/4th)	Rs.33,600/-
5	Annual Dependency (Rs.1,34,400-Rs.33,600)	Rs.1,00,800/-
6	Multiplier	18
7	Total dependency (Rs.1,00,800 x 18)	Rs.18,14,400/-
8	Loss of consortium (44,000 x 5)	Rs.2,20,000/-
9	Funeral expenses	Rs.16,500/-
10	Loss of estate	Rs.16,500/-
	Total compensation	Rs.20,67,400/-

In the circumstances, the appellants-claimants are entitled to afore-detailed enhanced compensation of Rs.1,83,000/- (Rs.20,67,400-Rs.18,84,400) along with interest at the rate of 8% per annum from the date of filing of the claim petition till its actual realization, which shall be paid jointly and severally by the respondents in the same terms and ratio as directed by the Tribunal.

With the above modifications, the instant appeals stand disposed of.

29.07.2022 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

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

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