329

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.543 of 2020 (O&M)
Date of Decision: 09.11.2022

Rajni Devi and others

..... Appellants

Versus

Rakesh Chauhan and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ram Pal Verma, Advocate
for the appellants.

MANJARI NEHRU KAUL J. (Oral)

CM No.535-CII of 2020

Prayer in this application is for condonation of delay of 33 days in filing the appeal

For the reasons stated in the application, the prayer is allowed and delay of 33 days in filing the appeal is condoned.

FAO No.543 of 2020

The appellants-claimants are in appeal against the award dated 31.05.2019, passed by the learned Motor Accident Claims Tribunal, Sonipat, vide which the following compensation was awarded to them on account of the death of Kamleshwari Paswan, aged about 55 years, (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 09.02.2018.

Sr. No.	Head	Amount
1.	Monthly Income including future prospects	Rs.11,495/- + 1,149/- = Rs.12,644/-
2.	Annual Income	Rs.1,51,728/-
3.	Deduction towards personal and living expenses (1/3rd)	Rs.50,576/-
4.	Annual dependency after deductions	Rs.1,01,152/-
5.	Compensation after applying multiplier of 11	Rs.11,12,672/-
6.	Loss of Consortium	Rs.40,000/-
7.	Loss of Estate	Rs.15,000/-
8.	Funeral expenses	Rs.15,000/-
9.	Parental consortium to children	Rs.40,000/- each (40,000 + 40,000) = Rs.80,000/-
	Total Compensation	Rs.12,62,672/-

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 9% per annum, from the date of filing of the claim petition till realization. Out of the aforesaid amount, a sum of Rs.40,000/- each along with proportionate interest was directed to be paid to respondents No.2 and 3 and remaining amount along with proportionate interest be paid to respondent No.1.

In the claim petition filed under Section 166 read with Section 140 of the Motor Vehicle Act, 1988 (hereinafter referred to as 'the Act'), it was claimed by the claimants that the deceased was going to his work place on a bicycle and was being followed by his son Surjeet Kumar on another bicycle. When they reached near KFC on Panipat-Delhi, GT Road, Car bearing registration No.HR-10AA-3815 (hereinafter referred to as 'the offending vehicle'), came in a rash and negligent manner, being driven by respondent No.1 and collided with the bicycle of the deceased. Resultantly, the deceased fell down on the road and sustained multiple injuries all over his body. Subsequently, the deceased succumbed to his injuries during his treatment in a hospital. FIR No.65, dated 13.02.2018, under Sections 279/304-A IPC, in police station Sadar Sonipat, was registered on the statement of son of the deceased, Surjeet Kumar.

Learned counsel appearing on behalf of the appellants-claimants submits that the appellants are primarily challenging the impugned award on the ground that the monthly income of the deceased at the rate of Rs.11,495/- per month has been assessed on the lower side, even though, it was categorically claimed that the deceased was a tutor and his income from the tuitions was in the sum of Rs.12000/- per month. Learned counsel further submits that the Tribunal had failed to compensate the claimants on account of loss of love and affection and the expenditure incurred on the transportation of the deceased to the hospital. He still further submits that since the deceased was the only bread earner of the family, the Tribunal ought to have adequately compensated all the claimants by assessing the monthly income of the deceased in the sum of at least Rs.20,000/-. He further submits that the Tribunal ought to have added 25% towards future prospects and not 10% as had been erroneously done by it.

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

This Court does not find any force in the submissions made by learned counsel for the appellants.

It is a matter of record and as conceded by learned counsel himself, no evidence was led before the Tribunal by the claimants in support of the income of the deceased from tuitions. Since the only evidence led with respect to the income/salary of the deceased, who was employed as store keeper in JSG Innotech, Pvt. Ltd. Kundli, was his gross salary of Rs.11,495/- per month, the Tribunal did not err in assessing the income of the deceased in the sum of Rs.11,495/-.

The submissions made by learned counsel for the appellants with respect to only 10% having been awarded towards future prospects deserves to be rejected as it stood proved that the deceased was 55 years of age and hence, as per the settled ratio of law in "**National Insurance Company versus Pranay Sethi and others**", **2017 (4) RCR (Civil) 1009**, an amount beyond 10% could not have been added to the income of the deceased towards future prospects.

Still further a perusal of the impugned award reveals that under the conventional heads also, the claimants have been adequately compensated as per the settled ratio of law in "**National Insurance Company versus Pranay Sethi and others**", 2017 (4) RCR (Civil) 1009, and "**Magma General Insurance Company Limited versus Nanu Ram @ Charu Ram and others**", 2018(4) RCR (Civil) 333.

As a sequel to the above, this Court does not find any merit in the appeal. Consequently, the instant appeal is dismissed in limine.

09.11.2022 **(MANJARI NEHRU KAUL)**
rittu **JUDGE**

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