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

**231**

**XOBJC-111-CII-2013 in**
**FAO-3463-2013**
**Date of Order: 21.02.2022**

BHARTI AXA GENERAL INSURANCE CO. LTD. **..Appellant**

**Versus**

KAUSHALAYA DEVI & ORS **..Cross-objectors**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Rajbir Singh, Advocate
for Insurance Company.

Mr. Inderjeet Singh, Advocate
for the cross-objectors.

**ANIL KSHETARPAL, J(Oral)**

This cross-objection has been listed in an appeal which has already been withdrawn.

Hence, the cross-objection is treated as an independent appeal.

The claimants pray for enhancement of compensation which was awarded by the Motor Accidents Claims Tribunal (hereinafter referred to as “the Tribunal”) on account of death of Sh. Ravinder, aged about 25 years (unmarried).

The learned counsel representing the claimants contend that the Court has failed to award the amount on account of increase in the income due to future prospects. He further contends that the Tribunal has failed to award appropriate amount under conventional heads like loss of estate, consortium and funeral expenses.

The learned counsel representing the appellant contends that the deceased was 25 years of age and therefore, he will be entitled to increase of 40% on account of future prospects in terms of judgment passed by the Five Judge Bench in ***National Insurance Company Ltd. Vs. Pranay Sethi and***

***others, 2017 SCC Online SC 1270.***

He further contends that under the non-conventional heads namely loss of estate and funeral expenses, the claimants are entitled to Rs.30,000/-, whereas, for loss of consortium, the claimants are entitled to Rs.40,000/- each i.e. Rs.80,000/-.

Per contra, the learned counsel representing the Insurance Company contends that deduction on account of living and personal expenses is required to be one half, whereas, the Tribunal has deducted only 1/3rd. He also relies upon ***National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC Online SC 1270*** .

It is evident that the Tribunal has failed to award increase of 40% in the income on account of future prospects. It is further evident that on account of loss of estate and funeral expenses, the Tribunal has failed to award Rs.15,000/- each under these heads.

As per the judgment passed by the Hon'ble Supreme Court in ***Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333*** which has been reiterated by another Division Bench in ***New India Assurance Co. Ltd. vs. Somwati and others, Civil Appeal No.3093 No.2020, decided on 07.09.2020***, and by a three Judge Bench in ***United India Insurance Company Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410,*** in which it has been approved that each parent is entitled to Rs.40,000/- as consortium. Further, it is correct that the Tribunal has erred in deducting 1/3rd from the income of the deceased towards his personal and living expenses which should have been one half.

In view thereof, the revised amount of compensation is calculated as under:-

| Heads | Amount awarded by the Motor Accidents Claims Tribunal (MACT). | Amount awarded by the High Court |
|---|---|---|
| **Monthly Income** | Rs.5,400/- | Rs.5,400/- |
| **Future Prospects** | — | 40% |
| **Dependancy** | 1/3 (Rs.43,200/-) | 1/2 (Rs.45,360/-) |
| **Multiplier** | 18 (Rs.7,77,600/-) | 18 (Rs.8,16,480/-) |
| **Funeral expenses + Transportation** | Rs.10,000/- + Rs.5,000/- | Rs.15,000/- |
| **Loss of Estate** | Rs.10,000 | Rs.15,000/- |
| **Filial consortium** | — | Rs.40,000 X 2 = Rs.80,000/- |
| **Total amount awarded (Award)** | **Rs.8,02,600/-** | **Rs.9,26,480/-** |

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

**February 21st, 2022** **(ANIL KSHETARPAL)**
*Ay* **JUDGE**

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