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

**251**

**FAO-411-2020 (O&M)**
**Date of decision: 19.12.2022**

Sunita and others .....Appellants

Versus

Jaideep and others .....Respondents

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Arun Rana, Advocate and
Mr. Suresh Kumar Kaushik, Advocate for the appellants.

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**MANJARI NEHRU KAUL, J. (ORAL)**

The claimants are impugning the award dated 30.07.2015 passed by learned Motor Accidents Claims Tribunal, Gurugram (for short, 'the Tribunal') wherein the following compensation was awarded to them on account of death of Kapoor Singh (hereinafter referred to as 'the deceased') in a motor vehicular accident which took place on 02.03.2014:-

| Sr. No. | Head | Amount |
|---|---|---|
| 1. | Monthly Income | Rs.10,000/- |
| 2. | Income after adding future prospects (30%) | Rs.13,000/- |
| 3. | Deductions towards personal expenses (1/3rd) | Rs.4,333/- |
| 4. | Dependency | Rs.8,667/- |
| 5. | Annual dependency | Rs.1,04,004/- |
| 6. | Compensation after applying multiplier of '14' | Rs.14,56,056/- |
| 7. | Loss of love, affection, care and guidance for minor children | Rs.1,00,000/- |
| 8. | Loss of consortium and estate | Rs.1,00,000/- |
| 9. | Funeral expenses | Rs.25,000/- |
| | Total compensation | Rs.16,81,056/- |

Learned counsel appearing for the appellants/claimants

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submits that the deceased was 45 years of age on the date of accident and was working as a security officer. He submits that the Tribunal erred in assessing the monthly income of the deceased in the sum of Rs.10,000/- even though PW-5 Rakesh Kumar (HR Executive of the Company wherein the deceased was working) had deposed that the deceased was earning Rs.12,838/- per month. He has further submitted that the Tribunal had also erred in adding just 30% towards future prospects whereas it should have been at least 40%, if not more. Besides this, learned counsel also submits that keeping in view the status of the deceased and his family, the deductions to the extent of 1/3rd required to be reassessed and modified to 1/5th.

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

On a pointed query put the learned counsel he was unable to bring to the notice of this Court any cogent evidence led by the claimants in support of the income of the deceased. Learned counsel in support of his submissions only referred to the testimony of PW-5 Rakesh wherein he had deposed that the deceased had drawn salary of Rs.11,220/- in the month of December, 2013, Rs.12,838/- in the month of January, 2014 and Rs.7,610/- in February, 2014. It is, thus, evident that the deceased did not have any fixed salary rather it was variable. In the circumstances, the Tribunal rightly assessed the monthly income of the deceased in the sum of Rs.10,000/- by taking an average of the salary drawn by the deceased. This Court also does not concur with the submissions made by the learned counsel that future prospects should have been 40% instead of 30%. As per the settled ratio of law in

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***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270***, since the deceased was a salaried person and was admittedly of 45 years of age, the Tribunal did not err in adding 30% towards future prospects. This Court also does not find any merit in the submissions made by the learned counsel with respect to deductions towards personal expenses having been incorrectly assessed at 1/3rd instead of 1/5th as the claimants are only 3 in number.

As a sequel to the above, the instant appeal being devoid of any merit is dismissed.

Since the main appeal is dismissed being devoid of any merit, there is no need to pass separate orders on the applications seeking condonation of delay of 799 and 596 days in filing and re-filing the appeal respectively, which are accordingly dismissed.

**19.12.2022** **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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

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