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

**270**

**FAO-10642-2018
Date of decision: 13.12.2022**

Sanjay and another .....Appellants

Versus

Vishal and another .....Respondents

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

Present : Ms. Priyanka Raj, Advocate for
Mr. Deepak Verma, Advocate for the appellants.

Respondent No.1-service dispensed with.

Mr. Vishal Aggarwal, Advocate
for respondent No.2-insurance company.

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

The claimants, who are husband and son of deceased Sangeeta (hereinafter referred to as 'the deceased'), are impugning the award dated 16.08.2018 passed by learned Motor Accidents Claims Tribunal, Gurugram (for short, 'the Tribunal') wherein they were awarded the following compensation on account of death of the deceased in a motor vehicular accident which took place on 23.08.2016:-

| Sr. No. | Head | Amount |
|---|---|---|
| 1. | Monthly Income | Rs.10,000/- |
| 2. | Income after adding future prospects (40%) | Rs.14,000/- |
| 3. | Deduction towards personal expenses (½) | Rs.7,000/- |
| 4. | Annual dependency | Rs.84,000/- |
| 5. | Compensation after applying multiplier of '15' | Rs.12,60,000/- |
| 6. | Loss of estate | Rs.15,000/- |
| 7. | Loss of consortium | Rs.40,000/- |
| 8. | Funeral expenses | Rs.15,000/- |
| | Total compensation | Rs.13,30,000/- |

The respondents were held jointly and severally liable to pay the amount of compensation to the claimants, along with interest @ 7.5% per annum, from the date of institution of the petition till realization.

Learned counsel appearing for the appellants has vehemently urged that the deceased, who was working as a teacher in a private school, was 40 years of age, when the accident in question took place. She submits that the Tribunal erred in assessing the income of the deceased at only Rs.10,000/- per month even though she was getting a salary of Rs.16,300/- per month from the school where she was employed. Besides this, it has also been contended that the deceased was earning about Rs.9,000/- per month from tuition work. It is submitted that in the circumstances, the income assessed by the Tribunal required to be assessed at Rs.25,000/- per month. It is still further urged that the Tribunal had also erred in making deductions to the extent of ½ instead of 1/3rd towards personal expenses. She has still further submitted that the Tribunal had also erred in not awarding any parental consortium to appellant No.2, who was minor son of the deceased.

Learned counsel appearing for respondent No.2-insurance company has opposed the submissions made by the counsel opposite. It has been urged by the learned counsel for the insurance company that no cogent evidence was led by the claimants in support of the salary of the deceased being Rs.16,300/- per month. It is submitted that in the circumstances, the Tribunal did not err in assessing the income of the deceased at Rs.10,000/- per month. However, the learned counsel appearing for the insurance company has not been able to controvert the submissions made by the counsel opposite qua the Tribunal erring in making deductions qua personal expenses to the extent of ½ instead of 1/3rd. He has also conceded that appellant No.2, who is minor son of the deceased, was entitled to be compensated for loss of parental consortium.

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

In the absence of any cogent evidence led by the claimants with respect to the salary of the deceased, this Court does not find any error with the monthly income which has been assessed by the Tribunal in the sum of Rs.10,000/- per month. However, this Court finds merit in the submissions made by the learned counsel for the claimants that the deductions towards personal expenses should have been assessed at 1/3rd instead of 1/2. Still further, appellant No.2 being son of the deceased is entitled to be compensated for loss of parental consortium. The Hon'ble Supreme Court in ***National Insurance Co. Vs. Pranay Sethi : 2017 SCC 270*** has quantified the amount in the sum of Rs.15,000/- each for loss of estate and funeral expenses in addition to Rs.40,000/- for loss of consortium. Still further, it has been held by the Hon'ble Supreme Court that the aforesaid amounts would be subject to 10% enhancement after every three years. Therefore, the claimants would be entitled to 10% enhancement *qua* the above-mentioned conventional heads. Hence, the amount of compensation under the conventional heads stands modified to Rs.16,500/- each for loss of estate and funeral expenses. Besides this, the claimants, who are husband and minor son of the deceased, are entitled to Rs.44,000/- each, for loss of spousal and parental consortium respectively.

The compensation thus payable to the claimants would be as follows:-

| **Sr. No.** | **Head** | **Amount** |
|---|---|---|
| 1. | Monthly Income | Rs.10,000/- |
| 2. | Annual Income | Rs.10,000/- x 12 = Rs.1,20,000/- |
| 3. | Future prospects (40%) | Rs.1,20,000/- x 40% = Rs.48,000/- |
| 4. | Total annual income | Rs.1,20,000/- + Rs.48,000/- = Rs.1,68,000/- |
| 5. | Deductions towards personal expenses (1/3rd) | Rs.1,68,000/- (/) 3 = Rs.56,000/- |
| 6. | Loss of annual future earnings | Rs.1,68,000/- (-) Rs.56,000/- = Rs.1,12,000/- |
| 7. | Multiplier | 15 |
| 8. | Loss of future earnings | Rs.1,12,000/- x 15 = Rs.16,80,000/- |
| 9. | Loss of consortium | Rs.44,000/- x 2 = Rs.88,000/- |
| 10. | Funeral expenses | Rs.16,500/- |
| 11. | Loss of estate | Rs.16,500/- |
| | Total compensation | Rs.18,01,000/- |

The claimants are, therefore, held entitled to a total sum of Rs.18,01,000/- as compensation along with interest @ 7.5% per annum from the date of filing of claim petition till its actual realization, which shall be paid by the respondents jointly and severally and would be apportioned to the claimants in the same ratio as directed by learned Tribunal.

With these modifications, the present appeal stands disposed of in the above terms.

**13.12.2022** **(MANJARI NEHRU KAUL)**
Vinay **JUDGE**

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