\IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 226/2019

Date of decision: 06.12.2022

Somwati

………………Appellant

Vs.

Prem Chand and others

…………………Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.Karan Singh, Advocate for the claimant/appellant

Mr. Rajbir Singh, Advocate for the respondents.

<u>Nidhi Gupta, J.</u>

This appeal has been filed by the claimant seeking enhancement of the compensation of Rs. 25,35,000/- awarded by Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal') vide Award dated 21.3.2018 passed in MACP-168-2017 on account of death of Karambir in a motor vehicular accident. The claimant is the mother of deceased Karambir, who preferred a claim petition under Section 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

It is not in dispute that deceased Karambir was stated to be holding the following qualifications/certificates;-

Ex. P-21	Certificate of B.A.
Ex.P22	Certificate of participation in District Yoga Association, Faridabad
Ex.P23	Certificate of Kanvashram Yogpith Nizamabad

Ex.P24	Certificate of Gurukul Kangdi University, Faridabad
Ex.P25	Certificate of Gurukul Parbhat Ashram
Ex.P25-A	Certificate of merit in Distt.Yoga Assoc.Faridabad
Ex.P26	Provision certificate of Kangri University, Haridwar
Ex.P27	Certificate of JP Public School, Noida
Ex.P28	Certificate of Delhi Sanskrit Academy
Ex.P29	Certificate of Acharyakulam
Ex.P30	Certificate of Shrimad Dayanand Ved University, Delhi.
Ex.P31	Certificate of merit in Anubhuti Yog Sansthan,Delhi
Ex.P32	Shodh pater
Ex.P33 & Ex.P34	Vedik Sahitya
Ex.P35	Voter card of petitioner.

Admittedly, though the deceased was a highly qualified person but he was not employed anywhere.

Learned Tribunal on considering the evidence on record concluded that Karambir had died due to injuries received by him in a motor vehicular accident which took place on 4.2.2017 due to rash and negligent driving of offending vehicle bearing registration No. HR-55Q-2896 driven by respondent no.1-Prem Chand. Learned Tribunal in view of the qualifications of the deceased yet, taking into consideration the fact that he was unemployed took his income to be Rs.20,000/- per month. Since deceased Karambir was bachelor learned Tribunal applied deduction of 50% towards his personal and living expenses in conformity with the judgment of the Hon'ble Supreme Court in **Sarla Verma and others v. Delhi Transport Corporation and another 2009(6) SCC 121**, and therefore, annual income of the deceased was assessed at Rs.1.20 lacs. Since the age of the deceased at the time of his death was about 37 years, learned Tribunal applied multiplier of 15 which is also in conformity with **Sarla Verma's** case (supra). Future prospects were awarded @ 40% as per law laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v Pranay Sethi and others, 2017(4) ACC 460 (SC)**. Accordingly, the learned Tribunal calculated the total compensation to be Rs.25,35,000/-.

It is submitted by the learned counsel for the claimant/appellant that medical treatment of Rs.2,79,000/- has not been added; and only Rs.15,000/- have been awarded for funeral and transportation expenses; and nothing has been given towards loss of estate and loss of love and affection. It is further submitted that there was every chance that the deceased would have got got a government job in view of his high qualification.

Learned counsel for the respondent-Insurance Company submits that there is no doubt that the deceased was highly qualified but admittedly he was not working anywhere. It is denied that the deceased could have got a government job as he was already 37 years old and was still not working anywhere, and it is submitted that therefore, the Tribunal was in error in taking his income to be Rs.20,000/- per month.

I have heard learned counsel for the parties,

I find that there is no error by the Tribunal by taking income of the deceased to be Rs.20,000/- per month as he was highly qualified. Even the deduction of 50% on account of personal expenses and application of multiplier of 15, as also increase to the extent of 40% by way of future prospects has been correctly applied. Perusal of the record shows that undisputedly the appellant had placed on record Bills Ex. P-9 to P-12 to show that the deceased had incurred an amount of Rs.26,628/-; as also Bill Ex.P-7 to show that the deceased had incurred amount of Rs.2,52,765/-, total amounting to Rs.2,79,433/- on his treatment. I find that the Ld. Tribunal has erroneously not added the same. I also find that the claimant is entitled to Rs.70,000/- under the conventional head of loss of estate and funeral expenses.

Accordingly, the appellant/claimant is held entitled to compensation, re-worked as under: -

Heads	Calculations
Income Rs.20,000/- per month	Rs.2,40,000/- per annum
Deduction 50%	½ = Rs.1,20,000/-
Future prospects 40%	(1,20,000/- + Rs.48,000/-) Rs.1,68,000/-
Multiplier-15	Rs.1,68,000/- x 15 = 25,20,000/-
Medical expenses	Rs.2,79,433/-
Conventional heads	Rs.70,000/-
Total compensation	Rs.28,69,433/-
Less already awarded	Rs.25,35,000/-
Enhanced compensation	Rs.3,34,433/-

The enhanced compensation shall carry interest @ 7.5% per annum from the date of filing of the petition till realization. Liability to pay enhanced compensation shall be joint and several.

Disposed of in the above terms.

06.12.2022 **(Nidhi Gupta)**
Joshi **Judge**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**

RAJINDER PARSHAD JOSHI
2022.12.12 11:01
I attest to the accuracy and
integrity of this document