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

FAO-840-2019 (O&M)

Date of Decision : 13.03.2023

Manju Arora and Another

....Appellants

VERSUS

Jaspreet Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashwani Arora, Advocate for the appellants.

Mr. Shubham Gupta, Advocate
for respondent No.3-Insurance Company.

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ALKA SARIN, J. (Oral)

The present appeal has been preferred by the claimant-appellants challenging the award dated 21.08.2018 passed by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal') qua the quantum of compensation awarded. Since the factum of the accident is not in dispute, the facts of the case are not being adverted to for the sake of brevity.

Learned counsel for the claimant-appellants would contend that the deceased in the present case, who was 23 years of age, was working as Engineer Designer with TXL Private Ltd, 5th Floor, Sebiz Square, IT-6, C-6, Sector-67, Mohali and was earning Rs.23,000/- per month. PW-2 Mohd. Alam, Administrative Officer, O/o TXL IT (P). Ltd. had deposed

regarding the salary of the deceased. Further, the letter of appointment was produced as Ex.P/15, salary appraisal was produced as Ex.P/16, Letter of Offer was produced as Ex.P/19, Employment Letter was produced as Ex.P/20, Confirmation as Ex.P-21, Appraisal letter as Ex.P/23, Salary Appraisal as Ex.P24, salary slips as Ex.P25 and Ex.P26, which all show that the deceased was getting an amount of Rs.23,000/- per month. Learned counsel would further contend that the income of the deceased has been assessed as Rs.13,000/- by the Tribunal without any basis totally ignoring the evidence on the record.

Per contra, learned counsel for respondent No.3 has contended that the person who had stepped into the witness box did not have an authority letter and hence his evidence could not be relied upon.

Heard.

In the present case, the factum of the accident is not in dispute and the only dispute is qua the quantum of compensation. The Tribunal in the present case has assessed the income of the deceased as Rs.13,000/- per month on the basis that she was well educated and employed. The Tribunal has discarded the evidence on the record i.e. letter of appointment produced as Ex.P/15, salary appraisal produced as Ex.P/16, Letter of Offer produced as Ex.P/19, Employment Letter produced as Ex.P/20, Confirmation letter produced as Ex.P-21, Appraisal letter produced as Ex.P/23, Salary Appraisal Ex.P24, salary slips as Ex.P25 and Ex.P26 only on the ground that PW-2 Mohd. Alam, Administrative Officer of TXL IT (P) Ltd did not have any authority and the income tax returns have not been produced. A perusal of the statement of PW-2 shows that there is not a suggestion that

the record produced by the witness was false or fabricated. Learned counsel for respondent No.3-Insurance Company has not been able to convince this Court that the record produced did not pertain to the deceased. In view of over-whelming evidence, there was no reason to disbelieve that the monthly income of the deceased was Rs.23,000/-.

The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Annual Income of the deceased	Rs.1,56,000/-(13000 x 12)
2	Deduction of 50%	Rs.78,000/-
3	Future Prospects 40%	Rs.1,09,200/- (78,000+31200)
4	Multiplier of 18	Rs.19,65,600/-
5	Funeral expenses	Rs.15,000/-
6	Loss of Estate	Rs.15,000/-
	Total Compensation	Rs.19,68,600/- rounded to Rs.19,69,000/-

In view of the above discussion, the income of the deceased is taken as Rs.23,000/- per month based on the evidence on the record. Deduction of 50% has rightly been applied. An addition of 40% has rightly been made towards future prospects. Multiplier has also been correctly applied. An amount of Rs.15000/- has been awarded by the Tribunal under the head Loss of Estate and Funeral Expenses. The same are enhanced to Rs.16,500/- (each) under both heads in view of the judgment of Hon’ble Supreme Court in the case of **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021 (4) RCR (Civil) 642]**. No

amount has been awarded towards consortium. An amount of Rs.44,000/- (each) is awarded under the head Consortium.(Filial).

In view of the above, the re-assessed compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Annual Income of the deceased	Rs.2,76,000/- (23000 x 12)
2	Deduction of 50%	Rs.1,38,000/-
3	Future prospects @ 40%	Rs.1,93,200/- (1,38,000+55,200)
4	Multiplier of 18	Rs.34,77,600/-
5	Loss of Estate	Rs.16,500/-
6	Funeral Expenses	Rs.16,500/-
7	Loss of Consortium Filial : Rs.44000/- x 2 (Rs.88000)	Rs.88,000/-
	Total Compensation	Rs.35,98,600/-
	Amount Awarded by the Tribunal	Rs.19,69,000/-
	Enhanced amount	Rs.16,29,600/-

The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till realization of the entire amount.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

March 13, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO

