IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 1043/2019 (O&M)

Date of decision: 15.02.2023

Ram Gajadhar Yadav and another

………..Appellants.

Vs.

Sudeep and others

………..Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. B.S.Tewatia, Advocate for the appellants.

Mr. Satish Jain,Advocate for respondent no.3-Insu.Co.

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.7,63,840/- awarded by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide Award dated 15.11.2018 passed in claim petition bearing no. MACP 641/2017 filed u/s 166 and 140 of the Motor Vehicles Act,1988.

Brief facts of the case are that learned Tribunal on appraisal of the pleadings and evidence before it concluded that the deceased Akash Yadav had died due to injuries received by him in a motor vehicular accident that took place on 29.10.2016 due to rash and negligent driving of Canter bearing registration No. NL-01K-2211 (hereinafter referred to as 'the offending vehicle'), being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3 herein.

Claimants before the Tribunal were parents and minor brother of the deceased. Appellants before this Court are parents of the deceased. The respondent-Insurance Company was held liable to pay the compensation.

Learned counsel for the appellants submits that the compensation is liable to be enhanced as the Ld. Tribunal has erroneously applied multiplier of 7 on the basis of the age of the appellants, whereas since the deceased was 24 years of age at the time of his death, multiplier of 18 ought to have been applied.

No other argument has been raised on behalf of the appellants.

In response learned counsel for the respondent Insurance Company submits that claimant no.3 was minor brother of the deceased. At the time of death, deceased was a bachelor and therefore, a deduction of 50% should have been made.

No other argument has been raised on behalf of the respondent Insurance Company.

Heard ld. Counsel for the parties.

Perusal of the impugned Award shows that learned Tribunal has indeed applied multiplier of 7 on the basis of age of the appellants, same being 62 and 61 years respectively. A perusal of the record shows that as per Post Mortem Report, Annexure-II the deceased was 24 years old at the time of his death. Accordingly, as per law laid down by the Hon'ble Supreme Court in **Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104,** multiplier of 18 ought to have been applied. Nonetheless, perusal of the impugned Award shows that learned Tribunal has computed the compensation admissible to the appellant in the following manner: -

"Monthly income of deceased: Rs. 11,800/- 40% of above to be added as future prospects: Rs. 4720/-

Total monthly income of the deceased: Rs. 16,520/- Personal and living expenses of deceased Akash Yadav i.e. 50% of Rs. 16/520/- Rs. 8260/- =

Monthly loss to family: 16,520/- Rs. 8260/- Rs.8260/-

Annual loss to family: 8260/- x 12- Rs. 99,120/-

Total loss to family: 99,120/- x 7= Rs.6,93,840/-

24. Besides this, the petitioners will also be entitled to a sum of Rs. 15,000/- towards loss of estate, Rs. 40,000/- towards consortium and Rs. 15,000/- towards funeral expenses in view of Pranay Sethi's case (supra). Thus, the total compensation will be Rs. 7,63,840/- (Rs. 6,93,840/- + Rs. 15,000/- + Rs. 40,000/- + Rs. 15,000/-) along with interest at the rate of 7.5% per annum from the date of filing of the petition till its realization. Issue no.2 is decided accordingly".

Though, it is to be noted that this is not an appeal filed by the Insurance Company yet, perusal of the above computation shows that sole argument raised by the Insurance Company that deduction of 50% should be made towards personal expenses as deceased was a bachelor, is misplaced as, Tribunal has already deducted 50% i.e. a sum of Rs.8260/- from the income of the deceased towards personal and living expenses.

In view of the above, present appeal is allowed, and enhanced compensation is reworked as follows:-

Monthly income	Rs.11800/-
Future prospects @ 40%	Rs.4720/-
Total	Rs.16520/-
50% deduction	Rs.8260/-
Annual loss of income	Rs.8260x12= Rs.99120/-

Multiplier	18
Total loss of income	Rs. 99120x18= Rs.17,84,160/-
Loss of estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Total	Rs.18,54,160/-
Already awarded by the Tribunal	Rs.7,63,840/-
Enhanced compensation	Rs.10,90,320/-

Ratio of apportionment, manner of disbursement, and rate of interest as determined by the ld. Tribunal remains unchanged.

Application(s),if any, also stand disposed of.

(Nidhi Gupta)
Judge

15.02.2023
Joshi

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