IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 2984/2003

Date of decision:08/02/2023

Mrs. Raj Sharma and another

………………Appellants

Vs.

Ramesh and others

…………………Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ravinder Arora, Advocate and Mr. Neeraj Khanna, Advocate for the appellant

Mr. Arun Kumar, AAG Haryana

Mr. Lalit Garg, Advocate for the Insurance Company

Nidhi Gupta, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.4,39,560/- awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide Award dated 24.4.2003 passed in MACT 95/2001 filed u/s 166 of the Motor Vehicles Act,1988.

Brief facts of the case are that the learned Tribunal on appraisal of the pleadings and evidence led before it concluded that the deceased Jeevan Kailash had died due to injuries suffered by him in a motor vehicular accident that took place on 13.12.2000 due to rash and negligent of bus bearing registration NO. HR-37-1462 (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/ Appellants herein are widow and minor daughter of the deceased. Respondents were held jointly and severally liable to pay the compensation to the claimants.

Learned counsel for the appellants assails the award primarily on the ground that learned Tribunal has taken the income of the deceased as only Rs.5000/- per month whereas the same ought to have been taken as Rs.8000/- per month in view of judgment of the Hon'ble Supreme Court in the case of **Chandra @ Chanda @ Chandraram and another v Mukesh Kumar Yadav and others, Law Finder Doc Id # 1888548**. It is submitted that though it was pleaded case of the appellants before the Tribunal that the deceased was running a Halwai shop and earning Rs.15000/- per month, yet the Tribunal has taken the income of the deceased as only Rs.5000/- per month, this despite the fact that even no evidence in rebuttal was produced by the respondents regarding the income of the deceased. It is stated that income of the deceased should be taken as Rs.8000/- per month.

The second contention on behalf of the appellants is that nothing has been granted by the learned Tribunal by way of future prospects. It is also submitted that the ld. Tribunal has erred in applying the multiplier of 11 and multiplier of 13 ought to have been applied in conformity with the judgment of the Hon'ble Supreme Court in **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130; Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104;**

and **National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680**.

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

Per contra, it has been submitted by the learned counsel for the Insurance Company that the appellants can derive no benefit from the judgment in case of **Chandra (supra)** relied upon by the appellants as in the said case the date of accident was of the year 2016 whereas in the present case the date of accident is 13.12.2000. It is further submitted that there is no error in the Award in respect of income of the deceased being taken as Rs.5000/- per month as even as per Notification of 2017, minimum wages for unskilled worker was Rs.6300/- and that of skilled worker was Rs.7625/-. It is submitted that accordingly, there was no error in taking the income of the deceased as Rs.5000/- in the year 2000, and therefore, the same ought to be maintained. In support, learned counsel for the respondent Insurance Company relies upon judgment of the Hon'ble Supreme Court in **Manusha Sreekumar and others v The United India Insurance Co. Ltd., Law Finder Doc Id # 2049874**,

However, learned counsel for the Insurance Company does not dispute the legal position/ submissions made by the learned counsel for the appellants qua future prospects, multiplier and conventional heads, the same being in conformity with the judgments of the Hon'ble Supreme Court.

No other argument has been raised on behalf of learned counsel for the parties.

I have heard learned counsel for the parties and given my thoughtful considerations to their rival submissions.

It is not denied that the deceased was a Halwai at the time of his death in the year 2000. A perusal of the record of the case, in particular the passbook Ex.P4 of Saving Bank Account of the deceased, as well as the Ex.P3 Passbook of Recurring deposit account in the name of appellant no.2-daughter of the deceased, shows that the balance in the Saving Bank Account of the deceased is Rs.2357/- in January 2001. Perusal of passbook Ex.P3 which relates to Recurring Deposit account of appellant no.2-daughter of the deceased - which shows that it was opened in the month of May 2000 with a sum of RS.500/- and by December it had accumulated to Rs.4000/-. In my view, it is therefore, clear that the deceased was earning at least Rs.7000/- per month.

Accordingly, income of the deceased is taken as Rs.7000/- per month. As age of the deceased was 47 years at the time of his death, future prospects of 25% are to be added in conformity with the judgment of **Sarla Verma'** case (supra). Deduction of 1/3rd has to be made as there are two claimants. Therefore, monthly dependency of the deceased works out to Rs.5834/-, and annual dependency comes to Rs.70,008/-. Multiplier of 13 has to be applied in view of the fact that the deceased was 47 years at the time of his death. Therefore, total dependency comes to Rs.9,10,104/-. Rs.40,000/- has to be awarded by way of spousal consortium and Rs.40,000/- by way of parental consortium. Further an amount of Rs.15,000/- each is granted on account of loss of estate and funeral expenses. Interest @ 9% per annum as granted by the ld. Tribunal, is maintained.

Accordingly, the enhanced compensation is reworked as under:-

Income	Rs.7000/-
Future prospects @ 25%	Rs.1750/-

Total Income	Rs.8750/-
Deduction-1/3rd	Rs.2916/-
Monthly Dependency	Rs.5834/-
Annual Dependency	Rs.70,008/-
Multiplier	13
Total dependency	9,10,104/-
Loss of consortium	Rs.40,000/-
Loss of parental consortium	Rs.40,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Total compensation	10,20,104/-
Awarded by the Tribunal	4,39,560/-
Enhanced compensation	5,80,544/-
Interest	9% per annum

Ratio of apportionment and manner of disbursement as determined by the learned Tribunal is maintained. Disposed of accordingly.

08/02/2023 **(Nidhi Gupta)**
Joshi **Judge**

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