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

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Decided on : 10.08.2023

Santosh and others

. . . Appellant(s)

Versus

Balwan Singh and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Deepinder Singh Walia, Advocate
for the appellant(s).

Mr. R.K. Bashamboo, Advocate
for respondent No.3 – Insurance Company.

SANJAY VASHISTH, J. (Oral)

1. The present appeal has been filed by the appellants/petitioners/claimants (hereinafter referred as claimants) in MACT Case No. 8 of 1990, dated 19.02.1990, for modification of award dated 19.01.1991, passed by Ld. Motor Accidents Claims Tribunal, Hisar (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of 'Rai Singh'.

2. The claimants in the MACT case were claimant No.1 - Smt. Santosh (widow of the deceased), claimant No.2 - Nirmala (minor daughter of the deceased), claimant No.3 - Jai Lal (father of the deceased) and claimant No.4 - Smt. Chhagi (mother of the deceased). In the present appeal before this Court, all the claimants are party in the same order seeking enhancement of compensation awarded by Ld. Tribunal on account of death of Rai Singh.

3. Briefly stated facts of the case are that on 26.11.1989, at around

7:50 AM, deceased Rai Singh was coming from Khairampur on his motorcycle bearing registration No. HRF/7474. Near the fields of Kanha Ram, a bus bearing registration No. HYT/9804 being driven in a very rash and negligent manner came from the opposite side and struck the motorcycle. Rai Singh was seriously injured and ultimately, succumbed to his injuries in Civil Hospital, Adampur.

4. Claimants filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 for seeking compensation of Rs.4,00,000/-. However, after going through the record, appreciating the evidences, examining the witnesses and hearing the arguments of both the sides, Ld. Tribunal assessed the age of the deceased as 24; his monthly income as Rs.810/-; applied the multiplier of 16; and accordingly, awarded compensation to the claimants to the tune of Rs.1,03,680/- payable by respondents severally and jointly with interest @12% per annum from the date of filing of the petition till its actual realization.

Appellants/petitioners/claimants have filed the present petition seeking enhancement of the compensation as awarded by the Ld. Tribunal.

5. While addressing arguments, Counsel for the appellants submits that the Ld. Tribunal has erred in determining the monthly salary of the deceased Rai Singh; failed to enhance the income on account of future prospects; has deducted personal expenses on the higher side and failed to grant any compensation on account of funeral expenses, loss of consortium, loss of estate.

6. On the other hand, Ld. Counsel for Respondent No. 3 – Insurance Company, submits that the Ld. Tribunal has rightly determined the monthly salary of the deceased as per prevailing wages of daily labourers

and there is no need to interfere in the amount of compensation awarded by the Ld. Tribunal.

7. As far as the monthly income of the deceased is concerned, in the absence of any conclusive proof worth regard to the income of the deceased, this Court deems it appropriate to assess the income of the deceased in accordance with the minimum wages prevalent in the State of Haryana at the time of accident that is Rs. 625/- P.M.

8. This Court has already rendered a detailed judgment titled as **Sangtari Muleem v. Karnail Singh, (FAO No. 2538 of 2006 D/d. 07.07.2023) : Law Finder Doc Id # 2270482**, in consonance with the settled proposition of law laid down by the Apex Court in **National Insurance Company Limited v. Pranay Sethi and Ors., 2017(4) RCR (Civil) 1009 : Law Finder Doc Id #918174**, and **Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77 : Law Finder Doc Id #188882**, and **Smt.Anjali and others v. Lokendra Rathod and others, 2023 (1) R.C.R. (Civil) 22 : Law Finder Doc Id #2081014**. Therefore, in the case in hand, same parameters as laid down by the Hon’ble Apex Court are applied for the purpose of calculation of compensation. For the sake of convenience, a comparative table of the compensation as assessed and calculated by Ld. Tribunal and this Court is produced below in a tabular form:

Sr. No.	Head	Compensation awarded by Ld. Tribunal	Compensation Awarded by High Court
1.	Income	Rs.810/- p.m.	Rs.625/- p.m.
2.	Future Prospects	NIL	Rs. 250/- (i.e. 40% of the income)
3.	Deduction towards personal expenses	Rs.270/- (1/3 rd of Rs. 810/-)	Rs.218.75/- [i.e. 1/4th of (Rs. 625/- + Rs. 250/-)]

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4.	Total Annual Income	Rs.6,480/- (Rs. 540 x 12)	Rs.7,875/- [i.e. 3/4th of (Rs.625/- + Rs. 250) x 12]
5.	Multiplier	16	18
6.	Loss of Dependency	Rs. 1,03,680/-	Rs.1,41,750/- (i.e. Rs.7,875 x 18)
7.	Funeral Expenses	NIL	Rs.25,000/-
8.	Loss of Estate	NIL	Rs.20,000/-
9.	Loss of Spousal Consortium	NIL	Rs.44,000/-
10.	Loss of Parental Consortium	NIL	Rs.44,000/-
11.	Loss of Filial Consortium to parents i.e. mother and father of the deceased	NIL	Rs.88,000/- (i.e. Rs. 44,000/- X 2)
12.	Total Compensation to be Paid	Rs. 1,03,680/-	Rs.3,62,750/-

9. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 12% per annum from the date of filing of the claim petition till its realization is worth to be maintained. However, learned counsel appearing on behalf of respondent No.3 - Insurance Co., submits that the rate of interest should not be over the awarded amount and therefore, it should not be more than 6% per annum.

10. I have gone through the judgments cited by counsel for the appellants (claimants) and thus, I deem it appropriate to grant the rate of interest at 7.5% per annum.

11. Thus, keeping in view the aim of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (claimants) is **Rs.3,62,750/-** along with interest at **7.5%** per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (petitioners/claimants).

12. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award

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would be adjusted.

13. Therefore, by partly modifying the award, appeal is allowed with the terms indicated here-above.

(SANJAY VASHISTH)
JUDGE

August 10, 2023
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*