229 *2023:PHHC:153815*

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

**FAO-2668-2020 (O&M)
Date of decision :02.12.2023**

Kuldeep Kaur and others ...Appellants

Vs.

Satpal and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sahibjeet Singh Sandhu, Advocate for
Mr. S.S. Swaich, Advocate
for the appellants.

Mr. Rajesh Sharma, Advocate
for respondent No.3.

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ANIL KSHETARPAL, J.

1. Through this appeal the claimants pray for modification of the award dated 09.09.2019 passed by the Motor Accident Claims Tribunal, SAS Nagar Mohali.

2. Late Sh. Harvinder Singh, aged about 50 years, died in a motor vehicular accident on 17.04.2018. The only issue which requires consideration in this case is with respect to the amount of compensation payable to the appellants.

3. Late Sh. Harvinder Singh has left behind widow and two children. The elder son is aged about 24 years, whereas, the younger daughter is aged about 22 years. It has come in evidence that late Sh. Harvinder Singh was working as a Supervisor-cum-Estimator with two different builders, namely, Everest Building Planner, Kharar, District SAS Nagar, Mohali and Balaji Marble & Building Contractor, Chandigarh. The widow claimed that late Sh. Harvinder Singh was getting monthly remuneration of Rs. 15,000/- and Rs.13,000/- from Everest Building Planner, Kharar, District SAS Nagar, Mohali and Balaji Marble & Building Contractor, Chandigarh, respectively. However, the Tribunal refused to

rely upon the same on the ground that the account books of the aforesaid firms have not been produced.

4. It has come in evidence that late Sh. Harvinder Singh was working as Supervisor-cum-Estimator for the last 25 years. He was working two different builders. His daughter is studying in Bombay. He had purchased a laptop in the year 2012, whereas, LED TV on EMI of Rs. 2,100/- per month in the year 2017. He also took a scooter loan, for which, he was paying Rs.2,500/- per month. He had also invested certain amount in LIC and was on an average paying premium of Rs.2,000/- per month for himself, his wife and children. His widow came in the witness box and stated that the family was spending Rs.27,000/- on payment of EMIs, ration, household expenses, electricity bills, study and accommodation expenses of the daughter.

5. The Tribunal has assessed the income @ 12,000/- per month.

6. This Court has heard the learned counsel representing the parties at length and with their able assistance perused the paper book alongwith the record produced by learned counsel representing the appellants.

7. Sh. Kulvinder Singh, appeared on behalf of Everest Building Planner, Kharar, District SAS Nagar, Mohali. He admitted that he is not maintaining books of accounts. However, he on oath stated that their firm was paying Rs.15,000/- P.M. to the deceased. Sh. Sikander Kumar, appeared on behalf of Balaji Marble & Building Contractor, Chandigarh. He was not questioned on the books of accounts. The overwhelming evidence has been produced to prove that late Sh. Harvinder Singh was working as Supervisor-Cum-Estimator. The family is residing near Chandigarh, when the accident took place, the deceased was riding his bike.

8. The learned counsel representing the respondents vehemently

contends that the deduction should be 1/3rd and not 1/4th.

9. This Court has considered the submissions. The parents always try to give best education and facilities to their children. A father belonging to middle class family would not spend more than 1/4th on himself particularly when he has two grown up children.

10. As per the judgment passed by the Hon'ble Supreme Court in ***Magma General Insurance Co.Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333*** which has been reiterated by another Division Bench in ***New India Assurance Co.Ltd. Vs. Somwati and others, Civil Appeal No.3093 of 2020***, decided on 07.09.2020, and by a three Judge Bench in ***United India Insurance Company Ltd. Vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410***, in which it has been approved that each claimant is entitled to Rs.40,000/- as consortium. Further, it is correct that the Tribunal has erred in deducting 1/3rd from the income of the deceased towards his personal and living expenses which should have been one half.

11. Keeping in view the aforesaid facts, the Tribunal has erred in assessing the income only at Rs. 12,000/- per month. Taking into consideration the entire evidence, it is considered appropriate to assess the income of the deceased at Rs.20,000/- per month. Since there were four family members including the deceased, therefore, the deduction should be of 1/4th share towards self expenses. On account of increase in the income in future, the appellant shall be entitled to 25% addition. All the three dependents shall be entitled @ Rs.40,000/- towards the loss of consortium.

12. In view of the aforesaid, the compensation is re-worked as under:-

Heads	Compensation Awarded by MACT	Compensation awarded by High Court
Monthly income assessed	Rs. 12,000/- per month	Rs. 20,000/-

Future Prospects 25%	Rs.3,000/-	Rs.5,000/-
(-) Deduction	Rs. 3750/- per month(1/4th)	Rs.6250/- per month(1/4th)
Dependency	Rs.11250/- per month	Rs.18750/- per month
Annual Dependency	Rs.11250x12=135000/-	Rs.18750x12=225000/-
Multiplier 13	Rs.11250x12x13=17,55,000	Rs.18750x12x13=29,25,000
Conventional Heads -Loss of estate -Funeral Expenses -Consortium	NIL Rs.15,000/- Rs.15,000/- Rs.40,000/-	 Rs.15,000/- Rs.15,000/- Rs.120,000/- Total = 1,50,000/-
Total Amount of Compensation	Rs.16,30,000/-	Rs.30,75,000/-
Compensation awarded by the High Court :Rs.30,75,000/- (-)Compensation Awarded by the MACT :Rs. 16,30,000/- Enhanced Compensation :Rs. 14,45,000/-		

13. The appeal stands allowed in the aforesaid terms.

14. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

02.12.2023

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