2023:PHHC:092700

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

FAO-1379-2002 (O&M)
Date of decision: 17.07.2023

Sneh Lata and others

....Appellants

Versus

Mehar Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Gaurav Mohunta, and
Mr. Nishant Arora, Advocates for the appellants

Mr. R.P.Verma, Advocate for
Mr.Radhey Shayam Sharma, Advocate for respondent no.5

Mr. Maninder Arora, Advocate for respondent no.6

ANIL KSHETARPAL, J (Oral)

1. This is the claimant's appeal for modification of the award passed by the Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal') passed on 08.08.2001. In substance, the appellants pray for enhancement in the amount of compensation assessed by the Tribunal.

2. There is no dispute with regard to the occurrence of the accident, involvement of vehicle and the correctness of the finding with regard to the rash and negligent driving.

3. Late Sh.Om Parkash died in an automobile accident on 21.12.1997. The vehicles involved in the accident were a Maruti car and a Jeep. The deceased was travelling in the Maruti car. He was 30 years of age at the time of accident. He was a married man, having three minor children, apart from his wife and mother. The Tribunal has

assessed the annual income of the deceased at Rs.37,000/- per year. Learned counsel representing the appellant submits that as per his income tax return, the income of the deceased was Rs.37,390/-.

4. Learned counsel representing the appellant further contends that the Tribunal has erred in applying deduction of 1/3rd which should not be more than 1/4th particularly in view of five dependents. He submits that there were as many as 6 members in the family and the deceased is not likely to spend 1/4th of his income on his personal expenses. It is further contended that the Tribunal has failed to grant increase on account of future prospects as well as has failed to apply the appropriate multiplier and has failed to grant the appropriate amount under the conventional heads.

5. Learned counsel representing the respondent submits that the accident took place on 21.12.1997 and the judgment in ***'National Insurance Company Ltd. vs. Pranay Sethi and other'*** *2017 (10) SCC 450,* has been passed subsequently.

6. This Court has considered the submissions of the learned counsel representing the parties and perused the paperbook. The judgment passed in **Pranay Sethi's case (supra)** has not been made applicable with prospective effect. Moreover, it is the responsibility of the Court to award appropriate compensation to the claimants. As per the income tax return, the income of the deceased was Rs.37,390/- and he was 30 years old at the time of accident, hence, he will be entitled to 40% addition in the income on account of future prospects. It would not be appropriate to deduct more than 1/4th of the income

towards the personal expenses of the deceased. Thus, the annual dependency comes to Rs.39, 260/- after applying 40% increase with 1/4th deduction. The deceased was 30 years old. Hence, the appropriate multiplier is 17. The appellants are also held entitled to an amount of Rs.30,000/- (Rs.15,000/- each) towards the funeral expenses and loss of estate. Each of the claimant shall be entitled to the loss of consortium at the rate of Rs.40,000/- each in view of **New India Assurance Co. Ltd. vs. Somwati and others Civil Appeal No.3093 of 2020, decided on 07.09.2020 and United India Insurance Company Ltd. vs. Satinder Kaur @ Satwinder Kaur and others, (2020) SCC Online 410.**

7. Hence, the total amount of compensation is recalculated as under:-

Sr. No.	**Various Heads**	**Amount awarded by MACT**	**Amount awarded by the High Court**
1.	Annual Income	Rs. 37,000/-	Rs.37,390
2.	Future Prospects	Nil	(40%) 37390+14956= 52,346/-
3.	Dependency	(1/3rd) 24,000	(1/4th) 52,346-13,086 = 39,260/-
4.	Multiplier	24,000x15 = 3,60,000/-	(17) 39,260x 17 = 6,67,420/-
5.	Funeral Expenses	Nil	15000/-
6.	Loss of estate	Nil	15000/-
7.	Spousal, parental a& filial consortium	50,000/-	40,000 x5 = 2,00,000/-
	Total amount awarded (Award)	Rs. 4,10,000/-	Rs.8,97,420/-
		8,97,420 - 4,10,000 = 4,87,420/-	

8. The enhanced amount of compensation shall be payable alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till its payment.

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

17.07.2023 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No