IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 2165/2001 (O&M)

Date of decision: 23.02.2023

Raghubir Singh

………..Appellant.

Vs.

Malkiat Singh and others

………..Respondents

<u>Nidhi Gupta, J.</u>

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.1,14,000/- granted by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide Award dated 4.11.2000 passed in MACT Case NO.138/1998 filed under Section 166 of the Motor Vehicles Act,1988.

Facts in brief are that the Ld. Tribunal on the basis of pleadings and evidence before it concluded that deceased Ram Mehar had died due to injuries suffered by him in a motor vehicular accident that took place on 22.12.1993 due to rash and negligent driving of Truck bearing registration no. RNG 163 (hereinafter referred to as the 'offending vehicle') being driven by respondent no.1. Claimant/appellant is father of the deceased. The liability to pay compensation was jointly and severally fastened upon the driver, owner and insurer of the offending vehicle. Ld. Tribunal took the age of the deceased as 23 years on the basis of evidence of the sole claimant. Income of the deceased was taken as Rs.2000/- per month.

It is submitted by the ld. Counsel for the claimant that he does not dispute the income of the deceased, however, keeping in view the law laid down by the Hon'ble Supreme Court in **Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104 ; National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680;** and **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130**, future prospects @ 40% ought to have been added; and multiplier of 18 should have been applied whereas the Tribunal has applied the split multiplier of 4 and 11. It is stated that in view of the fact that the deceased was bachelor at the time of his death, deduction of 50% made by the Tribunal was correct.

Learned counsel for the respondent does not dispute the factual and legal position as canvassed by the ld. Counsel for the appellant. It is however, submitted that ld. Tribunal has granted interest @ 12% per annum which is on the higher side and therefore, rate of interest may be decreased to 6% per annum.

Heard ld. Counsel for the parties.

I find merit in the submissions made on behalf of the appellant. In my view, addition of 40% of the income of the deceased ought to have been made towards future prospects keeping in view the law laid down by the Hon'ble Supreme Court in **Pranay Sethi's case (supra)**. Further in conformity with the judgment of the Hon'ble Supreme Court in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied. It is noticed that even under other conventional heads nothing has been granted by the ld. Tribunal. Accordingly, claimant is held entitled to Rs.44,000/- towards loss of filial consortium. Further Rs.16,500/- each, is granted towards loss of estate, and funeral expenses.

Resultantly, the compensation awarded by the Tribunal is reworked as under:-

Heads	Awarded	Reworked
Income	Rs.2000/- p.m.	Rs.2000/- p.m.
Future prospects	Nil	40% = Rs.800/-
Dependency	50%	50% = Rs.1400/-
Multiplier 4 and 11	1000 x 12 x 4 + 500x12x11	18 1400x12x18
Age of the deceased	23	23
Compensation	1,14,000/-	3,02,400/-
Loss of consortium	-	-
Loss of filial and parental consortium	Nil	Rs.44,000/-
Last Rites	Nil	Rs.16,500/-
Loss of estate	Nil	Rs.16,500/-
Rate of interest	12% p.a.	6% p.a.
Total	Rs.1,14,000/-	Rs. 3,79,400/-
Enhancement		Rs.2,65,400/-

Sole Claimant shall be entitled to interest @ 6% per annum on the enhanced compensation from the date of filing of the claim petition till realization. However, liability as determined by the Tribunal will continue.

Disposed of accordingly.

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

(Nidhi Gupta)
Judge

23.02.2023
Joshi