

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

FAO 2166/2001 (O&M)

Date of decision: 23.02.2023

Indira Devi and another

.....Appellants.

Vs.

Malkiat Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sagar Aggarwal, Advocate for the appellants

Mr. Paul Singh Saini, Advocate and Mr. Rahul Pathania,
Advocate for Resp.No.5-New India Insu.Co.

Mr.Paul Singh Saini, Advocate for resp.no.8-National Insu.
Co.Ltd.

Nidhi Gupta, J.

Present appeal has been filed 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.139/1999 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 Bhupinder 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. Claimants/appellants are parents 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 26 years on the basis of evidence of the claimants. Income of the deceased was taken as Rs.2000/- per month.

It is submitted by the ld. Counsel for the claimants that age of the deceased is determinable from his Matriculation Certificate Mark A-4 wherein his date of birth is shown to be 8.12.1967. It is submitted that there is no dispute in respect of income of the deceased to be Rs.2000/- per month as determined by the ld. Tribunal on the basis of the salary certificate Ex.PB. It is submitted that 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 17 should have been applied whereas the Tribunal has applied the split multiplier of 4 and 11. It is further submitted that nothing has been granted under the conventional heads.

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 Id. Tribunal. Accordingly, claimants are held entitled to Rs.44,000/- each 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%= 800 + 2800/-
Dependency	50%	50% of 2800= Rs.1400/-
Multiplier	Split multiplier of 4 and 11 Rs.1000x12x4 + 500x12x11	17
Age of the deceased	26	26
Compensation	Rs.1,14,000/-	1400x12x17= Rs.2,85,600/-
Loss of consortium	-	-
Loss of filial and parental consortium	Nil	Rs.88,000/-
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. 4,06,600/-
Enhancement		Rs.2,92,600/-

Claimants shall be entitled to interest @ 6% per annum on the enhanced compensation from the date of filing of the claim petition till realization. Ratio of apportionment, manner of disbursement and, liability to pay the compensation 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