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

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**FAO-4897-2003 (O&M)
Decided on : 05.10.2023**

Kulwinder Kaur and others
. . . Appellant(s)

Versus

Tarlok Singh and others
. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. T.S. Hundal, Advocate
for the appellant(s).

Mr. Harsh Aggarwal, Advocate
for respondent No.4 – Insurance Co.

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SANJAY VASHISTH, J. (Oral)

CM-21425-CII-2003

i. Prayer in this civil miscellaneous application is for condoning the delay of 59 days in filing the present appeal.

ii. Notice of this application was issued.

iii. After hearing learned counsel for the parties and in view of the grounds mentioned in the application, the delay of 59 days in filing the appeal is hereby condoned.

Civil Misc. application stands disposed of.

FAO-4897-2003 (O&M)

1. The present appeal has been filed by the appellants/petitioners/claimants (hereinafter referred as claimants) in MACT Case No. RBT 14/18.04.2001/ 14.12.2002, for modification of award dated 06.06.2003, passed by Ld. Motor Accidents Claims Tribunal, Amritsar (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of 'Dr. Aasdeep Singh' in a

motor vehicular accident.

2. Claimants in the MACT case were Kulwinder Kaur (widow of deceased), Robin (minor daughter of deceased), Avi (minor son of deceased) and Balbir Kaur (mother of deceased). In the present appeal before this Court, all the claimants are party in the same order.

3. Briefly stated facts of the case are that on 21.12.2000, at about 9:00 A.M., deceased was going from Village Nabipur towards Amritsar on his Enfield motorcycle bearing Registration No. PB-02-Y-0138. He was being followed by his maternal uncle Harbhajan Singh, Kashmir Singh, Amarjit Singh and Joginder Singh in a car bearing Registration No. PB-02-V-0190. However, on G.T. Road, near village Nabipur, a Tata Mobile-20 bearing registration No. PB-11-C-0029 which was being driven in a rash and negligent manner by Respondent No. 1 struck the motorcycle of the deceased from the opposite direction. The driver of the offending vehicle ran away from the spot. Deceased was taken to the Amandeep Hospital, Putlighar, Amritsar where he succumbed to his injuries on 23.12.2000.

For the said accident, FIR No. 109 of 2000 dated 26.12.2000 was registered.

4. Claimant filed a claim petition under Section 166 of the Motor Vehicle Act, 1988 for seeking compensation to the tune of Rs. 30,00,000/- (Thirty lacs). However, after going through the record, appreciating the evidence, examining the witnesses, and hearing the arguments of both the sides, Ld. Tribunal assessed the age of the deceased as 28 years; his monthly income as Rs.7,000/-; applied the multiplier of 14; deducted 1/3rd (one-third) of his income on account of monthly expenses; provided Rs. 20,000/- on account of funeral expenses; provided Rs. 5,000/- as spousal consortium to

Claimant No. 1 and Rs. 2,200/- as the cost of the petition. Accordingly, Learned Tribunal awarded an amount of compensation to the claimants to the tune of Rs. 7,82,000/- payable by respondents severally and jointly with interest @9% per annum from the date of filing of the petition till its actual realization.

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

6. While addressing arguments, Counsel representing the appellants asserts that there was a substantial error on the part of the Learned Tribunal in its assessment of the deceased's income. It is noteworthy that the deceased held a B.A.M.S. qualification and derived a monthly income of Rs. 7,000 from his employment as a Doctor with the Municipal Corporation of Amritsar, an additional Rs. 5,000 from his private medical practice, and a further Rs. 10,000 per month from his agricultural endeavors.

Counsel for the appellants further submits that Learned Tribunal has failed to provide addition in the income of the deceased under the head of Future prospects; has deducted 1/3rd from the income of the deceased on account of personal expenses rather than 1/4th; has applied the multiplier of 14 as against 17; has provided Funeral expenses to the lower side; has granted spousal consortium on the lower side and has failed to grant consortium to the other claimants; and has also failed to grant compensation on account of loss of estate against the settled proposition of law as rendered by Hon’ble the Supreme Court. Consequently, prays for an augmentation of the compensation amount originally granted by the Learned Tribunal.

6. Alternatively, Counsel for Respondent No. 4, representing the Insurance Company, asserts that the Learned Tribunal accurately assessed

the deceased's salary and appropriately computed the compensation amount for the claimant. Consequently, there is no justification for intervening in the well-reasoned and precise award issued by the Learned Tribunal.

7. The primary and pivotal issue before this Court, essential for the determination of the compensation due to the claimants, revolves around the assessment of the deceased's monthly salary.

There has been no specific denial by the counsel for the respondents regarding the deceased's employment in the Health Department of the Municipal Corporation, Amritsar on *ad*-hoc basis and the said fact has also been proved by AW4- Vijay Sharma, Establishment Branch, Health Department, Municipal Corporation, Amritsar. AW-4 has further categorically deposed that deceased used to earn Rs. 7,000/- per month from the said job. Thus, the same is worth to be maintained.

Furthermore, Counsel for the appellants has contended that the deceased generated a monthly income of Rs. 5,000 from his private practice. On the contrary, Counsel for Respondent No. 4, the Insurance Company, has challenged this assertion, arguing that there is no concrete evidence on record to substantiate the deceased's income from his private practice. For substantiating his arguments, Learned Counsel for the appellants relies on the judgement rendered by the Hon'ble Apex Court in ***Chandra @ Chanda Chandraram* v. *Mukesh Kumar Yadav*, 2021(4) R.C.R (Civil) 492**. In this case, deceased was possessing heavy vehicle driving license, but salary certificate of the deceased was not filed. Counsel refers to Paragraph 10 of the said judgment, operative part of which says as under:

> *"10. .... In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be*

> *an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork Is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality."*

Upon careful consideration of the arguments presented by both parties, this Court acknowledges the undisputed fact that the deceased held a B.A.M.S. degree and was likely engaged in private practice. However, it is imperative to consider that he was concurrently employed by the Municipal Corporation on *ad-hoc* basis, implying limited time for full-time private practice. Moreover, his practice location, situated in a village, typically commands lower fees, particularly when adjusted for inflation given the accident occurred in the year 2000.

This Court recognizes the indispensable role of the doctor in a society, as they are the cornerstone of healthcare, offering essential medical services and playing a pivotal role in preserving human lives. When a qualified doctor faces an untimely demise, it constitutes a profound loss to the community they serve. The absence of such a healthcare professional not only disrupts the continuity of care but also creates a void in the network of medical expertise available to the public especially in villages where there is an imperative need to strengthen the existing health care system. Moreover, deceased was a certified Ayurveda doctor and Ayurveda plays a significant role in Indian villages as a traditional system of healthcare and wellness.

Thus, even in the absence of specific evidence to prove the income of the deceased from private practice, in an exercise of prudent estimation, the deceased's monthly income from his private practice is assessed at Rs.3,000/- per month.

As far as the argument pertaining to income from the agricultural work is concerned, this Court is of the view that no cogent evidence has been placed on record by the Claimants to prove deceased's income from agriculture. Furthermore, considering the deceased's concurrent employment with the Municipal Corporation and involvement in private practice, it is reasonable to conclude that he had limited or no time to engage in agricultural activities.

Thus, the monthly income of the deceased is assessed as Rs.10,000/- per month (Rs.7,000/- per month and Rs.3,000/- per month).

8. Learned Counsel representing Respondent No. 4 - Insurance Company, contends that the Learned Tribunal has made an error by not accounting for income tax deductions from the deceased's salary while assessing the salary of the deceased. Nevertheless, it is crucial to note that there is no evidence available, that deceased ever paid any amount under the head of income tax. Said fact has also been observed by the Learned Tribunal in Paragraph 19 of its award, relevant extracted part of which says as under:

> *"19. .... Payment of the income tax has not been proved by the claimants."*

Thus, the argument addressed by the Counsel cannot be accepted, and the income remains assessed as Rs. 10,000/- per month.

9. This Court has already rendered a detailed judgment titled as ***Sangtari Muleem* v. *KarnailSingh*, (FAONo.2538of2006D/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. 7,000/- p.m.	Rs. 10,000/- p.m.
2.	Future Prospects	NIL	Rs. 4,000/- (40% of the income of the deceased)
3.	Deduction towards personal expenses	Rs. 2,400/- [i.e. 1/3rd (one-third) of Rs.7,000/-]	Rs. 3,500/- ([i.e. 1/4th (one-fourth) of (Rs. 10,000/- + Rs. 4,000/-]
4.	Total Annual Income	Rs. 55,200/- (Rs. 4,600/- x 12)	Rs. 1,26,000/- (Rs. 10,500/- x 12)
5.	Multiplier	14	17
6.	Loss of Dependency	Rs. 7,72,800/- (i.e. 55,200/- x 14)	Rs. 21,42,000/- (i.e. Rs.1,26,000/- x 17)
7.	Medical expenses	NIL	NIL
8.	Funeral Expenses	Rs. 2,000/-	Rs. 25,000/-
9.	Loss of Estate	NIL	Rs. 20,000/-
10.	Loss of Spousal Consortium	Rs. 5,000/-	Rs. 44,000/-
11.	Loss of Parental Consortium	NIL	Rs. 88,000/- (Rs. 44,000/- each to the claimant No. 2 and 3)
12.	Loss of Filial Consortium to parents i.e. to mother of the deceased	NIL	Rs. 44,000/-

13.	Costs of petition	Rs. 2,200/-	NIL
14.	Total Compensation to be Paid	Rs. 7,82,000/-	Rs. 23,63,000/-

10. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 9% per annum from the date of filing of the claim petition till its realization is worth to be maintained in view of the settled proposition of law established by the Apex Court and applied by this Court.

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 be reduced to the rate of 6% per annum.

11. 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.

12. Thus, keeping in view the aims and objects of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (claimants) is **Rs.23,63,000/-** 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).

13. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award, would be adjusted and the amount of compensation awarded shall be distributed to the claimant and father of the deceased in the same ratio as

was held by the Ld. Tribunal.

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

15. Pending Miscellaneous applications, if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

October 05, 2023
J.Ram

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