IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 2269/2006(O&M)

Date of decision: 26.04.2023.

Smt. Chinu through her LRs

………………Appellant

Vs.

Ashok Kumar and others

………………Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

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

Mr. Lalit Garg, Advocate for the Insurance Company.

Nidhi Gupta, J.

Present appeal arises out of claim petition no. 31/2005 filed by Smt. Chinu-widow, Master Sahil minor son and parents of deceased-Jagdish. During the pendency of the appeal, appellants no.1, 3 and 4 have expired, and are survived only by Sh. Sahil Kashyap, who is therefore, lone appellant herein.

Prayer in this appeal is for enhancement of compensation of Rs.23,63,440/- granted by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide Award dated 7.12.2005 passed in MACT Case no. 31 of 2005, filed u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act'), on account of death of deceased Jagdish Kumar, due to injuries suffered by him in a motor vehicular accident that took place on 12.11.2001 on account of rash and negligent driving of Tata Sumo No. DL-3CF-4934 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2, and insured by respondent no.3 herein.

Ld. counsel for the appellant seeks enhancement of compensation on the ground that deceased Jagdish Kumar was working as Junior Operator in LPG Bottling Plant, Gudha, District Karnal and after making necessary deductions income of the deceased came to Rs.19,662/- per month. It is submitted that however, in view of the law laid down by the Hon'ble Supreme Court in **National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680**, an addition of 50% towards future prospects was required to be made. It is further submitted that the ld. Tribunal has made a deduction of 1/3rd towards personal expenses. However, keeping in view the fact that claimants were four in number a deduction of 1/4th ought to have been made. It is also submitted that as the deceased was 35 years at the time of his death, multiplier of 16 should have been applied whereas ld. Tribunal has applied multiplier of 15.

In response, it is submitted by the ld. counsel for the Insurance Company that it cannot be disputed that in view of the fact that the deceased was a salaried person, and in accordance with the judgment of Hon'ble Supreme Court in **Pranay Sethi** (supra), an addition of 50% has to be made towards future prospects, and multiplier of 16 is required to be applied.

Ld. Counsel for the respondent Insurance Company, however, disputes that deduction of 1/4th is to be made, and submits that it was not established by the claimants on record that father of the deceased was dependent on the deceased. It is submitted that deceased was about 35 years of age at the time of death and therefore, his father would have been between 55 to

60 years of age and therefore, cannot be taken as a dependent on the deceased and accordingly, deduction of 1/3rd towards personal expenses is correct.

Heard ld. counsel for the parties.

I find merit in submissions advanced on behalf of both the parties for the reasons stated against each. Moreover, no evidence has been led by ld. Counsel for the appellant to prove the pecuniary dependency of the parents of the deceased on the deceased at time of death. Accordingly, the compensation payable to the appellants is modified as follows: -

Sr.No.	Head	MACT (Amount in Rupees)	Compensation reworked in this appeal (in Rupees)
1	Income	19,662/-	19,662/-
2	Future prospects	Nil	50%
3	Dependency	1/3rd	1/3rd
4.	Multiplier	15	16
5	Compensation	23,59,440/-	37,75,104/-
6	Loss of consortium	2,000/-	44,000/-
7.	Loss of filial and parental consortium	Nil	Nil
8.	Last Rites	--	16,500/-
9	Loss of Estate	--	16,500/-
10.	Interest	--	6%
11.	Total	23,63,440/-	38,52,104/-

Disposed of as above.

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

26/04/2023. **(Nidhi Gupta)**
Joshi **Judge**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**