IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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Date of decision: 04.05.2023

FAO-4033-2019 (O&M)
Krishan Lal @ Krishan & Another
...Appellant(s)
Vs.
Dhanna Singh & Another
...Respondent(s)
****
FAO-1971-2019 (O&M)
United India Insurance Co. Ltd.
...Appellant(s)
Vs.
Krishan Lal @ Krishan & Others
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Jimmy Singla, Advocate
for the appellants (in FAO-4033-2019)

Mr. Saurav Bhatia, Advocate
for respondent No.1 (in FAO-4033-2019)

Mr. Rajesh K. Sharma, Advocate
for respondent No.2 (in FAO-4033-2019)

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NIDHI GUPTA, J.

Mr. Saurav Bhatia, Advocate puts in appearance on behalf of respondent No.1/driver and owner of offending vehicle (in FAO-4033-2019) and files Vakalatnama which is taken on record.

2. By this common order, I shall dispose of two cross appeals same being FAO-4033-2019 filed by the claimants; and FAO-1971-2019 filed by the Insurance Company. Both the appeals are being

disposed of by common order as facts, arguments, and questions of law involved in both the Appeals are identical, and as both the appeals arise from one Award dated 22.11.2018 passed by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as "the learned Tribunal") in MACP Reg. No.244 of 2017, filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act").

3. For the sake of convenience, parties are being referred to by their litigative status before the learned Tribunal.

4. Vide the impugned Award dated 22.11.2018, learned Tribunal has awarded compensation of Rs.11,02,000/- to the claimants along with interest @ 9% per annum from the date of filing the petition till realisation. Learned Tribunal awarded compensation as above on account of death of 22-year-old Sunny Kumar @ Sunny. The learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased- Sunny Kumar @ Sunny had died due to injuries suffered by him in a motor vehicular accident that took place on 09.11.2017 due to rash and negligent driving of truck bearing registration No.HR-57-4897 (hereinafter referred to as "the offending vehicle") being driven and owned by respondent No.1 and insured by respondent No.2/appellant in FAO-1971-2019 - filed by the Insurance Company. The two claimants are the parents of the deceased- Sunny Kumar @ Sunny.

5. Learned counsel for the claimants seeks enhancement of compensation inter alia on the grounds:

a) that nothing has been granted by learned Tribunal towards future prospects. It is submitted that deceased was 22 years of age at the time of accident and was self-employed, and therefore, an addition of 40% ought to have been made towards future prospects;

b) that learned Tribunal has granted interest @ 9% per annum only whereas the same should be 12% per annum.

6. On the other hand learned counsel for the Insurance Company impugns the Award by inter alia, submitting:

a) that learned Tribunal has granted huge sum of Rs.1,30,000/- under conventional heads whereas, as per law, the same should be Rs.77,000/-;

b) It is very fairly conceded that addition of 40% ought to have been made towards future prospects.

7. No other argument is raised on behalf of the parties.

8. I have heard learned counsel for the parties.

9. Perusal of record of the case shows that age of the deceased was determined to be 22 years on the basis of Aadhaar card (Exhibit C3) where date of borth of the deceased is mentioned as 18.12.1994. Though, it was the pleaded case of the appellants that deceased was a mason and earning Rs.15,000/- per month, however, except for the bald statement of claimant No.2, no other evidence was led by the claimants to prove the alleged avocation of the deceased. Accordingly, learned Tribunal took his income as Rs.9,000/- per month as

admissible to a daily wage labourer. Learned Tribunal correctly applied multiplier of 18.

10. However, the two corrections that are required to be made in the present Award are that, in accordance with law laid down by Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others (2017) 16 SCC 680,** an addition of 40% has to be made towards future prospects.

11. Further as per latest judgment of Hon'ble Supreme Court in **Shri Ram General Insurance Co. Ltd. Vs. Bhagat Singh Rawat & Others Civil Appeal Nos.2410-2412/2023,** reiterated by the Hon'ble Supreme Court in **Mehmooda Bee & Others Vs. National Insurance Co. Ltd. (@ SLP (C) No.16767 of 2022)** and **Bebi Giri Vs. National Insurance Co. Ltd. Civil Appeal No.6551 of 2022,** a total sum of Rs.77,000/- only, is admissible under conventional heads. Learned counsel for the claimants has not been able to dispute this position in law.

12. Accordingly, compensation payable to the claimants, is reworked as follows in tabular form:

HEADS	**AWARDED BY MACT**	**AWARDED BY THIS COURT**
Income	Rs.9,000/- per month	Rs.9,000/- per month
Annual income	Rs.9,000/- x 12 = Rs.1,08,000/-	Rs.9,000/- x 12 = Rs.1,08,000/-
Future prospects	NIL	(40%) Rs.1,08,000/- + Rs.43,200/- = Rs.1,51,200/-
Deduction	-(50%) Rs.54,000/-	-(50%) Rs.1,51,200/- - Rs.75,600/- = Rs.75,600/-
Multiplier	(18) Rs.54,000/- x 18 = Rs.9,72,000/-	(18) Rs.75,600/- x 18 = Rs.13,60,800/-
Conventional heads	1,30,000/-	Rs.77,000/-
Total	Rs.11,02,000/-	Rs.14,37,800/-
Enhanced by	Rs.3,35,800/-	

13. Ratio of apportionment, and mode of disbursement of compensation as determined by the learned Tribunal is maintained. Interest @ 9% as granted by the learned Tribunal is maintained. In view of the above discussion, both the appeals are **partly allowed** as above.

14. Pending application(s) if any also stand(s) disposed of.

04.05.2023 **(Nidhi Gupta)**
Sunena **Judge**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No