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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-374-2008 (O&M)

Date of decision: May 25, 2023

Angoori Devi and another

....Appellants

versus

Pritam Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Kapish Singla, Advocate for
Mr. Ashit Malik, Advocate for appellants.Ms. Anamika Mehra, Advocate
for respondent No.4-Insurance Company.

ARUN MONGA, J. (ORAL)

Appellants before this Court are (parents of deceased victim) claimants seeking enhancement of compensation by assailing impugned award dated 10.10.2007 rendered by learned Motor Accidents Claims Tribunal, Kurukshetra (for brevity, "Tribunal") whereby claim petition filed by claimants was accepted and a sum of Rs.2,75,000/- was awarded as compensation on account of death of Rajiv Kumar.

2. Succinct facts, as noted by learned Tribunal, are as below:

"xx xx on 30.3.2006 Rajiv Kumar (since deceased) alongwith his friend Amarjit Singh was present at a barber shop at bus stand Shahabad. Rajiv Kumar was having a 'Bullet' motorcycle without registration number. They wanted to go to Kurukshetra. Rajiv Kumar and Amarjit Singh started from the barber shop on the 'Bullet' motorcycle which was being driven by Rajiv Kumar at a normal speed and on correct side of the road. Amarjit Singh was a pillion rider on it. At about 11.15 a.m. when they reached outside the gate of bus stand, truck no. UP-81F-9904 came from the side of Pipli at fast speed and in a rash and negligent manner being driven by respondent no.1. The abovesaid truck struck against the motorcycle. As a result of that, Rajiv Kumar and Amarjit Singh fell down and received multiple and grievous injuries. Rajiv Kumar died on the spot. The accident had taken place was seen by Amarjit Singh, Malkiat

Singh and Kulbir Singh. Petitioners have claimed compensation to the tune of Rs. 15 lacs alongwith interest from all respondents.”

3. Upon notice, respondents No.1 to 3 (driver, owner and *sapurdar* of truck) filed written statement and took preliminary objections that claimants had no locus standi to file and maintain claim petition and same was not maintainable; that claim petition was bad for mis-joinder and non-joinder of necessary parties and claimants were estopped by their own act and conduct from filing the claim petition.

3.1. On merits, it was submitted that that contents of petition were vague and incomplete and as such petition was liable to be rejected under Order 7 Rules 1, 11 and 14 of C.P.C. The amount claimed by claimants was highly exaggerated. No accident was caused by respondent No.1 nor vehicle of the answering respondents was involved in the accident. Moreover, respondent No.1 was having a license. So, claim petition was liable to be dismissed.

3.2. Respondent No.4-Insurance Company filed its separate written statement and took similar preliminary objections that claim petition was not maintainable; that claimants had no locus standi to file and maintain claim petition; that no accident had taken place in the alleged manner; that vehicle in question was being driven in contravention of terms and conditions of insurance policy and claimants were estopped by their own act and conduct from filing the claim petition.

3.3. On merits, respondent No.4 took the plea that claimants had given exaggerated version of amount spent on the transportation and last rites of deceased whereas no injuries were caused. The truck in question had been involved in the case by collusion amongst claimants, respondents No.1 and 2 and the local police just to grab amount of compensation illegally. A false and fabricated story had been put forward. It was further averred that claim petition was liable to be

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dismissed. Vehicle was being driven without a valid registration certificate, route permit and fitness certificate. The driver of truck was not having valid driving license. It was prayed that claim petition be dismissed *qua* respondent No.4.

4. Learned Tribunal framed the following issues:

- “1. *Whether the accident in question resulting into death of Rajiv Kumar was caused due to rash and negligent driving of Truck No. UP-81F-9904 by its driver Pritam Singh respondent no.1? OPP*
2. *If issue no.1 is proved, whether petitioners are entitled to compensation, if so, to what amount and from whom? OPP*
3. *Whether the claim petition has been filed by the petitioners in collusion with respondents no.1 and 2? OPR*
4. *Whether respondents no.1 was not holding a valid and effective driving license at the time of accident? OPR.*
5. *Relief.”*

5. On appraisal of record/ evidence, learned Tribunal decided issues No.1 and 2 in favour of claimants. Issue No.3 was decided against respondents. Issue No.4 was decided against respondent No.4. Consequently, claim petition filed by claimants was *inter alia* accepted and a sum of Rs.2,75,000/- was awarded as compensation on account of death of Rajiv Kumar.

6. Learned counsel for appellant-claimants contends that income assessed by learned Tribunal as Rs.3,000/- per month was on lower side. He contends that deceased was a student of B.A. 3rd year and had a bright future ahead and had he not met with the accident, he would have earned handsomely given his age of 23 years and doing graduation apart from being an athlete having participated at national and international level events. In support of his contention, he relies on Apex Court judgment rendered in **S. Vasanthi and another versus M/s Adhiparasakthi Engg. College and another¹** wherein, it has been held as under:

“11. *It could thus be seen that the deceased S. Sathiyannarayan was twenty-three years of age at the time of the accident. He was a qualified engineering graduate and was pursuing an MBA degree at*

SRM University to further his professional capabilities. In view of the specific averments made in the affidavit as to the employment prospects of the classmates of the deceased S. Sathiyarayan and also his young age at the time of the accident, we are of the considered view that the Tribunal and the High Court have erred in not giving due weightage to the same. Had the deceased S. Sathiyarayan not met with the unfortunate accident, he would have surely drawn a salary equivalent to that of his classmates or at least an amount near the said amount. Furthermore, the deceased was the only issue of the appellants. Since no parent should have to suffer through the death of their children, much less their only child, we are of the considered view that the monthly income as calculated by the High Court is inadequate.

12. Thus, we find that the compensation to be paid on account of the death of deceased S. Sathiyarayan ought to be worked out by enhancing his monthly income to Rs. 30,000/. xx xx xx.”

6.1. Learned counsel for appellant-claimants further contends that nothing was awarded towards future prospects and loss of filial and parental consortium. Multiplier of 15 was applied while calculating the compensation, however, the same ought to have been 18. Also contends that amount awarded on account of loss of estate is also on lower side.

7. On the other hand, learned counsel for respondent No.4-Insurance Company opposes the appeal while supporting the award of learned Tribunal.

8. I have heard learned counsel for the parties and perused case file.

9. Having heard rival contentions and on perusal of impugned award, I find that the submissions made by learned counsel for respondent No.4-Insurance Company before learned Tribunal were duly considered and repelled by recording sound and sufficient reasons consistent with record and the applicable law. I am inclined to agree with the view taken by learned Tribunal. The insurance company has not filed any appeal or cross-objection. Further, in view of Apex Court judgment in S. Vasanthi's case (supra), wherein the accident had occurred in the year 2010 and deceased in that case was an engineering graduate pursuing his professional degree of M.B.A., whereas in the instant case, deceased met with the accident in 2006 and given the age, qualification of deceased and he being a

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sportsperson, by reasonable guesstimate, conservatively the notional income of the deceased can safely be taken as Rs.7,000/- per month.

10. Having observed as above and applying the principles in cases of **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another²**, **National Insurance Co. Ltd. v. Pranay Sethi³**, read with **Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others⁴**, I am of the view that claimants are entitled to receive compensation on account of death of Rajiv Kumar in motor vehicular accident, in the following terms:

Deceased	Rajiv Kumar
Date of accident/death	30.03.2006
Age	20/21 years
Claimants	Parents
Income of the deceased	Rs.7,000/- per month
Future prospects	40% (Rs.7,000+2,800) = Rs.9,800/-
Deduction in dependency for personal expenses	1/2 (9,800-4,900)=Rs.4,900/-
Annual dependency	Rs.58,800/- (4,900x 12)
Total loss of dependency with Multiplier of 18	Rs.10,58,400/-
Loss of Consortium (Parents)	Rs.44,000/- x 2 = Rs.88,000/-
Loss of estate & funeral expenses	Rs.16,500/- + Rs.16,500/- = Rs.33,000/-
Total	Rs.11,79,400/- (Rs.10,58,400/- + Rs.88,000/- + Rs.33,000/-)
Compensation awarded by the Tribunal	Rs.2,75,000/-
Enhanced amount of compensation to be paid	Rs.9,04,400/- (Rs.11,79,400-Rs.2,75,000/-)

11. Accordingly, amount of compensation is enhanced to the extent of above computations. Entire compensation shall be payable to claimants along with interest **as awarded by learned Tribunal**. Same shall be payable to claimants within a period of 2 months of their approaching the insurance company along with web print of instant order, failing which additional compensatory interest of 3%

²2009 (3) The Punjab Law Reporter 22
³(2017) 16 SCC 680

⁴(2019) 3 SCC (Cri) 153

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p.a. shall be paid from the date of filing of claim petition till payment. Enhanced compensation amount after adjusting the compensation, if any, already paid, be disbursed to claimants as per apportionment by learned Tribunal.

12. The learned Tribunal directed that out of the compensation awarded by it, sums of Rs.25000/- each be paid to the two claimants and remaining amount be deposited in fixed income scheme in the bank. The unfortunate appellants suddenly lost their young son aged 20-21 years in the vehicular accident on 30.03.2006. At this stage of old age, it would be unfair to deprive them the use of their own money by keeping the same in bank deposit. It is, therefore, directed that the entire compensation amount with interest be paid to the appellants forthwith. The impugned award is modified and the appeal stands disposed of accordingly.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 25, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No