IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

221 **FAO No.4416-2014 (O&M)**
Date of decision: 24.01.2023

Kamlesh & Others **...Appellant(s)**

Vs.

Surjeet Singh & Others **...Respondent(s)**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rajiv Sharma, Advocate for the appellants.

Mr. D.K. Prajapati, Advocate for respondent No.3.

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NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.18,47,480/- granted by Motor Accident Claims Tribunal, Palwal (hereinafter referred to as "the learned Tribunal") vide Award dated 07.10.2013 passed in MACT Case No.26 of 2013.

Brief facts of the case are that the learned Tribunal upon appraisal of all the materials placed before it came to the conclusion that deceased-Vinod Kumar had expired due to injuries sustained by him in a motor vehicular accident that took place on 06.06.2010 due to rash and negligent driving of car bearing registration No.HR-55ET-5251 (hereinafter referred to as "the offending vehicle") by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The respondents were held jointly and severally liable to pay the compensation.

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Claimants/appellants herein are the widow and minor children of the deceased.

The grounds on which learned counsel for the appellants assails the present Award is that future prospects have not been awarded, and even no consortium has been granted to the three minor children of the deceased. It is also submitted that Rs. 5,000/- towards loss of estate and Rs. 10,000/- towards funeral expenses as granted by the learned Tribunal are on lower side, and multiplier of 17 ought to have been applied instead of 16 as the deceased was 28 years old at the time of death.

No other argument is raised on behalf of the appellants.

Per contra, it is very fairly stated by learned counsel for the Insurance Company that as per the law laid down by the Hon'ble Supreme Court in ***Civil Appeal No.3483 of 2008 titled as "Sarla Verma & Others Vs. Delhi Transport Corporation & Another"; Special Leave Petition (Civil) No.25590 of 2014 titled as "National Insurance Company Limited Vs. Pranay Sethi & Others" and Civil Appeal No.9581 of 2018 titled as "Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram & Others,*** appellants are entitled to 50% future prospects; and as per the above-cited law multiplier of 17 was applicable. However learned counsel submits that learned Tribunal has granted interest at the rate of 9% which is on higher side and the same ought to have been 7.5%. It is also submitted that since there are four claimants, deduction qua personal expenditure should be 1/4th and not 1/3rd.

I have heard learned counsel for the parties.

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It is not disputed on record that deceased was 28 years old at the time of death as evident from the PMR Ex.P-2. Therefore, future prospects @ 50% are applicable, and multiplier of 17 should be applied. Further, minor children of the deceased are held entitled to Rs. 40,000/- each as parental consortium. Deduction of 1/4th should be made as there are four claimants. Further, Rs.5000/- towards loss of estate and Rs. 10,000/- towards funeral expenses as granted by the learned Tribunal are on lower side, therefore, the same are enhanced to Rs. 15,000/- each.

Accordingly, in view of the admitted legal position as noticed above, the compensation admissible to the appellants is re-worked as follows:-

Sr. No.	**Head**	**Amount**
1.	Monthly Income	Rs. 14,160/-
2.	50% Future Prospects	Rs. 14,160/- + 7,080/- = Rs.21,240/-
3.	1/4 Deduction qua Personal Expenses	Rs. 21,240/- - 5,310/- = Rs.15,930
4.	Annual Income	Rs. 15,930/- x 12 = Rs.1,91,160/-
5.	Multiplier	17
6.	Loss of Dependency After Applying Multiplier	Rs.1,91,160/- x 17 = Rs.32,49,720/-
7.	Loss of Consortium	Rs.1,20,000/-
8.	Loss of Estate	Rs.15,000/-
9.	Funeral Expenses	Rs.15,000/-
	Total Compensation	**Rs.33,99,720/-**
	Compensation granted by learned Tribunal	Rs.18,47,480/-
	Difference Amount	Rs.15,52,240/- along with interest @ 7.5% per annum

Rate of interest will be 7.5% per annum from the date of filing the claim petition till actual realization. Ratio of apportionment and manner of disbursement will be the same as determined by the learned Tribunal.

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Accordingly, present appeal stands disposed of as above.

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

24.01.2023 **(Nidhi Gupta)**
Sunena **Judge**

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

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