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

FAO-6326-2014
Reserved on 18.7.2023
Date of Decision:- 21.9.2023

Chander Kanta @ Kanta and others

… Appellants

Versus

Hari Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Argued by :- Mr. Amandeep Singh, Advocate for
Mr. Chanderhas Yadav, Advocate,
for the appellants.

Mr. Raj Kumar Bashamboo, Advocate,
for respondent No.3-Insurance company.

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KARAMJIT SINGH, J.

1. The present appeal has been filed by the claimants/appellants seeking enhancement of the quantum of compensation of ₹ 8,26,856/- granted by the Motor Accident Claims Tribunal, Narnaul (in short, “the Tribunal”) vide award dated 9.9.2013.

2. That appellants No.1 and 2/claimants No.1 and 2 are parents and appellant No.3/claimant No.3 is brother of deceased Anit. On 17.5.2011, deceased was travelling along with Krishan on a motorcycle No.HR-35-E-3315, which was driven by Udaiveer. They were followed by Rajesh Kumar, who was driving another motorcycle. When they reached near turn of village Meghot Binja,

car No.HR-35E-3401, which was driven in rash and negligent manner by respondent-Hari Singh came from the side of Narnaul at a very high speed and struck against motorcycle of Anit. As a result of said accident Anit sustained injuries and died. The accident was witnessed by Rajesh Kumar and FIR was registered against respondent-Hari Singh for causing the aforesaid accident. The offending car was owned by respondent-Dharampal Yadav and was insured with Reliance General Insurance Company Ltd. The deceased was 22 years of age and was working as a Compounder in Yadav Eye Hospital, Narnaul and his monthly salary was ₹ 8,000/- and he was also doing the business of dairy and was also agriculturist and as such used to earn additional income of ₹ 3,000/- per month. That the deceased was bachelor and the claimants were dependent on his income. The claimants claimed that compensation worth Rs.20 lac along with interest be awarded to them.

3. The claim petition was contested by the respondents and respondents No.1 and 2 filed joint written statement wherein they denied the factum of accident and they further pleaded that false FIR was registered against respondent-Hari Singh.

4. Separate written statement was filed on behalf of the insurance company taking preliminary objections that at the time of alleged accident driver of the offending car was not holding valid and effective driving licence and the car was being driven in violation of the terms and conditions of the insurance policy. On merits, it was denied that car in question was involved in any accident as alleged by

the claimants. The other averments of the claim petition were denied being wrong.

5. Injured Udaiveer also filed separate claim petition against the respondents and both the claim petitions were jointly tried by the Tribunal.

6. On the pleadings of the parties, following issues were framed:-

1. Whether Anit Kumar son of Man Singh and petitioner Udaiveer sustained injuries in a road side accident which took place on 17.5.2011 in the area of village Meghot Binja (Police Station Nangal Chaudhary) due to rash and negligent driving on the part of respondent No.1, the driver of car bearing registration No.HR-35E-3401? OPP
2. To what amount of compensation, if any, and from whom the claimants are entitled ? OPP.
3. Whether respondent No.1 did not hold a valid and effective driving licence, if so to what effect? OPR-3.
4. Relief.

7. The claimants examined PW-1 Chanderkanta-mother of the deceased, PW-2 Udaiveer who was driving ill-fated motorcycle at the time of accident, PW-3 Rajesh Kumar another eye-witness, PW-4 Suman Kumar, PW-5 Dr. Pankaj Aggarwal and PW-6 Umesh Kumar and tendered into evidence documents copy of voter card Ex.PX, Ration card Ex.PY, 10+2 certificate Ex.PZ, matriculation certificate of

deceased Ex.PQ and medical bills Ex.P1 to Ex.P27 of injured-Udaiveer.

8. Owner and driver of the offending car tendered documents Ex.R1 to Ex.R3. However, no evidence was led by insurance company.

9. After hearing the counsel for the parties, the Tribunal awarded compensation worth ₹ 8,26,856/- along with interest @ 9% per annum from the date of filing of the claim petition till its realization, in favour of the appellants in equal shares. The owner, driver and insurer of the offending car were jointly and severally held liable to pay the amount of compensation.

10. Being aggrieved, the appellants have filed the present appeal.

11. I have heard the counsel for the parties.

12. The counsel for the claimants/appellants while seeking enhancement of the compensation awarded by the Tribunal has *inter alia* contended that the deceased was just 21 years of age and was having bright future and at the time of his death, the deceased was working in a private hospital as a compounder and his monthly salary was ₹ 8,000/- and he was getting additional income of ₹ 3,000/- per month from dairy and agriculture, but the Tribunal assessed the monthly income of the deceased as ₹ 4,888/-; that the monthly income of the deceased should be considered as ₹ 11,000/-. The counsel for the appellant has further contended that the claimants are also entitled to get compensation under conventional heads as per **National Insurance Company** v. **Parnay Sethi,** 2017(4) RCR(Civil) 1009 and **Magma**

General Insurance Company Ltd. v. **Nanu Ram @ Chuhru Ram,** 2018(3) Law Hearld (SC) 2410 and that the appellants are also entitled to get litigation expenses.

13. On the other hand, the counsel for insurance has submitted that compensation awarded by the Tribunal is on higher side as compensation on account of future prospect was awarded @ 50%, which as per the settled law should have been 40% in the present case. The counsel for the Insurance Company has further submitted that even the funeral expenses and transportation charges awarded @ ₹ 25,000/- and ₹ 10,000/- respectively by the Tribunal are on higher side. It has been further contended that claimants No.1 and 2, who are parents of the deceased are not entitled to get any compensation under head of loss of consortium. The counsel for the insurance company made prayer that the present appeal filed by appellants deserves to the dismissed.

14. I have considered the submissions made by counsel for the parties.

15. During arguments the counsel for the insurance company has admitted the fact that no appeal has been filed by the insurance company against the impugned award dated 9.9.2013 passed by the tribunal.

16. Admittedly Anit son of the appellants No.1 and 2, who was aged 21 years died in a motor vehicle accident, which was caused by respondent-Hari Singh while driving car No.HR35-E-3401 in a rash and negligent manner on 17.5.2011.

17. The claimants have not led any reliable evidence to prove that the deceased was a qualified compounder/pharmacist or was working in some private Eye Hospital at Narnaul. Admittedly, the deceased was 21 years of age. So, the learned Tribunal rightly assessed the monthly income of the deceased as ₹ 4888/- on the basis of notification issued by Haryana Government with regard to minimum wages for the year 2011-12. The learned Tribunal further added 50% on the ground of future prospectus and thus, assessed the total monthly income of the deceased as ₹ 7332/-. The multiplier of 18 was rightly applied by the learned Tribunal. The learned Tribunal also awarded amount of ₹ 25,000/- as funeral expenses and ₹ 10,000/- on account of transportation and while assessing the dependency of the claimants as ½, awarded total compensation worth ₹ 8,26,856/-. In the present case, no appeal has been filed by the insurance company to challenge the aforesaid quantum of compensation and thus, no interference is required to be made by this Court to reduce the aforesaid amount of compensation.

18. The present appeal has been filed by the appellant seeking enhancement of the quantum of compensation. As per law laid down by Hon'ble Apex Court in **Pranay Sethi's** case (supra), **Magma General Insurance Company's** case (supra) and **Shri Ram General Insurance Company Limited** v. **Bhagat Singh Rawat and others;** 2023 (2) TAC 713 (SC), appellants No.1 and 2 being parents of the deceased, are entitled to get another amount of ₹ 52,000/- as loss of consortium (which also includes enhancement @ 10% for every 3

years) and ₹ 50,000/- in total on account of loss of love and affection. The appellants are also entitled to get ₹ 15000/- as litigation expenses in light of judgment passed by Hon'ble Supreme Court in case **Sidram** v. **the Divisional Manager, United India Insurance Company Limited and another** 2023 (1) RCR (Civil) 44.

19. In light of the above discussion, the total amount of compensation awarded to the claimants by the learned Tribunal is enhanced by ₹ 1,17,000/- which appellants No.1 and 2 are entitled to get with interest at the rate fixed by the learned Tribunal in the award dated 9.9.2013 and is to be paid by the insurance company to appellants No.1 and 2 in equal shares. Rest of the award passed by the learned Tribunal shall remain intact. The appeal stands allowed to the aforesaid extent and disposed of accordingly.

(KARAMJIT SINGH)
JUDGE

21.9.2023
Gaurav Sorot/Paritosh Kumar

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No