IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4051-2016 (O&M)
Date of decision: 16.01.2023

National Insurance Company Ltd.

...Appellant(s)

Vs.

Sinder Kaur & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Amrinder Singh Sidhu, Advocate for the appellant.

Mr. M.K. Bhatnagar, Advocate for respondents No.1 to 4.

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NIDHI GUPTA, J.

Present appeal has been filed by the Insurance Company challenging Award dated 02.11.2015 passed by Motor Accident Claims Tribunal, SAS Nagar, Mohali (hereinafter referred to as "the learned Tribunal") in MACT Case No.10 of 2015 under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act") whereby respondents No.1 to 4/claimants were awarded a total compensation of Rs.19,09,800/-. Claimants before the learned Tribunal were widow and three minor children of deceased-Surinder Kumar @ Chhinda.

Learned Tribunal on the basis of evidence and pleadings placed on record came to the conclusion that the deceased-Surinder Kumar Chhinda had died in motor vehicular accident that took place on 04.09.2014 due to rash and negligent driving of respondent No.5 herein/driver of the offending motorcycle bearing registration No.PB-65Y-1089 (hereinafter referred to as "the offending vehicle") owned by respondent No.6 herein and insured by the appellant/Insurance Company. Learned Tribunal further held the respondents No.5 and 6 and appellant/Insurance Company jointly and severally liable to pay the compensation along with interest @ 6% per annum.

Learned counsel for the appellant assails the impugned Award primarily on ground of assessment of income. It is submitted by learned counsel that the learned Tribunal is in patent error in taking income of the deceased as Rs. 7,800/- per month as that of an unskilled labourer. It is submitted that date of accident was 04.09.2014 and date of death was 05.09.2014 and therefore, as per relevant notification dated 29.05.2014 issued by Department of Labour, Punjab, income of the deceased should have been Rs.6,447/- per month. A copy of the said notification has handed over in Court which is taken on record.

It is further submitted that the learned Tribunal has awarded future prospects at the rate of 50%. It is submitted that the deceased being 34 years old at time of death and self-employed unskilled labourer, future prospects should have been 40%. It is also stated that amount of Rs.1,00,000/- granted to each of the claimants under heads of loss of consortium and loss of love and affection is on the higher side, which should have been Rs.40,000/- each.

Learned counsel for the respondents/claimants submits that respondents/claimants are poor persons and therefore, Award be maintained. It is pointed out that while issuing Notice of Motion vide order dated 24.04.2017, this Court had directed that "*amount of* *compensation awarded on account of future prospects along with interest, shall remain stayed."*

I have heard learned counsel for the parties.

It is not in dispute that as per the relevant notification dated 29.05.2014, income of the deceased ought to have been taken as Rs.6,447.75/- per month as admissible to an unskilled labourer. Further, admittedly the deceased was about 34 years of age at the time of death and was self-employed labourer and not a salaried person and therefore, 40% ought to have been granted by way of future prospects. Application of multiplier of 16 and deduction of 1/4 as done by the learned Tribunal is maintained being correct. The above calculation is in conformity with the law laid down by the Hon'ble Supreme Court in ***Sarla Verma and Others Vs. Delhi Transport Corporation and Another 2009 (3) RCR (Civil) 77 SC*** *and* ***National Insurance Company Ltd. Vs. Pranay Sethi 2017 (16) SCC 680.***

Accordingly, Computation of compensation admissible to the respondents No.1 to 4 herein/claimants is re-worked as follows:-

	MACT Awarded	Ought to have been
Income taken as unskilled labourer	Rs.7,800/- per month	Rs.6,447/- per month
Increased (future prospects)	50%	40%
Multiplier	16	16
Deduction	1/4th	1/4th
Loss of consortium	Rs.1,00,000/-	Rs.1,76,000/-
Love and affection	Rs.1,00,000/-	
Funeral expenses	Rs.25,000/-	Rs.16,500/-
Loss of Estate		Rs.16,500/-
Total + 6% interest	Rs.19,09,800/-	Rs.15,08,744/-

Rate of interest i.e. 6%, ratio of apportionment, as well as manner of disbursement as determined by the learned Tribunal will remain the same.

Accordingly, present Appeal is allowed in above said terms.

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

16.01.2023 **(Nidhi Gupta)**
Sunena **Judge**

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