IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 4974/2016 AND
FAO 5845/2016
Date of decision:10/03/2023

(1) FAO 4974/2016

National Insurance Co. Ltd.

………………Appellant

Vs.

Mohan Dev Aggarwal and others

…………………Respondents

(2) FAO 5845/2016

Mohan Dev Aggarwal and others

………………..Appellants.

Vs.

Snow Region Tours Pvt. Ltd. And others

………………Respondents.

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Paul Singh Saini, Advocate for the Ins.Co.

Mr. S.K.Sood, Advocate for the claimants.

Nidhi Gupta, J.

1. This common order shall dispose of aforesaid two appeals bearing FAO 4974/2016 filed by the Insurance Company, and FAO 5845/2016 filed by claimants, having arisen out of one Award dated 6.4.2016 passed by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') in MACT Case No.188/2015 filed u/s 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'); as the facts, law points and arguments advanced therein are identical. However, for the sake of convenience, facts are being noticed from FAO 4974/2016, filed by the Insurance Company.

2. Vide aforesaid Award, learned Tribunal granted compensation of Rs.44,30,000/- to claimants/respondents 1 to 3 herein, on account of death of Smt. Neeraj in a motor vehicular accident that took place on 3.5.2015 due to rash and negligent driving of bus bearing registration No. DL-1-PC-4351 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.5, owned by respondent no.4, and insured by appellant herein. Appellant and respondents 4 and 5 were held jointly and severally liable to pay the compensation. Claimants are the husband and two sons of deceased Smt. Neeraj.

The ld. Tribunal awarded compensation as follows:

Sr.No.	Head	Amount (In rupees)
1	Annual income	5,06,000/-
2.	1/4th deduction towards personal and living expenses	1,26,500/-
3.	Annual dependency	3,80,000/-
4.	Multiplier	11
5.	Total dependency	3,80,000 x 11= 41,80,000/-
6	Loss of Estate	25,000/-
7.	Funeral Expenses	25,000/-
8.	Loss of consortium to husband	1,00,000/-
9	Loss of consortium to children	1,00,000/-
10.	Total compensation awarded	44,30,000/-
11.	Interest	@ 7.5% p.a., from the date of filing of petition till actual realization

3. It is not disputed that age of the deceased is shown to be 49 years 5 months as per the Income Tax Return Ex.C-5 filed by the deceased, as well

as her Middle Class Examination Certificate, where date of birth is mentioned as 21.11.1965. Further, income of the deceased was taken as per Income Tax Return Ex.C-5 for the assessment year 2014-15 whereby her income was shown to be Rs.4,59,242/-. Accordingly, annual income of the deceased was assessed by the Tribunal as Rs.4.60 lacs. Ld. Tribunal granted 15% by way of future prospects; tax deduction of Rs.23000/- was made; and as the claimants are 3 in number deduction of 1/4th was made towards personal expenses; and multiplier of 11 was applied. Ld. Tribunal awarded consortium of Rs.1 lac; and granted Rs.25,000/- each towards loss of estate and funeral expenses. Tribunal further granted a sum of Rs. 1 lac to children towards loss of care and guidance for the children. Accordingly, payable compensation was calculated as Rs.44,30,000/-.

4. Ld. Counsel are ad idem that as per law laid down in **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram, 2018 (18) SCC 130; Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104;** and **National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680**, compensation admissible to appellants should be reworked.

5. Accordingly, compensation admissible to the claimants is reworked as follows. As the deceased was self-employed and admitted to be 49 years 5 months at time of death, therefore, multiplier of 13 is applicable, and future prospects @ 25% has to be added. It is undisputed and borne out from the record that tax deduction of Rs.42,860/- ought to have been made instead of Rs. 23000/-. Claimants are 3 in number, therefore, deduction of 1/3rd ought to have been made towards personal expenses. Each of the claimants is entitled to Rs.40,000/- as consortium.

Accordingly, in conformity with the judgments of Hon'ble Supreme Court in **Magma, Sarla Verma and Pranay Sethi** (supra), the compensation is reworked as follows:-

S.No.	Head	MACT	Re-worked AMOUNT
1	Income assessed p.a.	4,60,000/-	4,60,000/-
2.	Future prospects	@ 15% 69,000/-	@ 25% 1,15,000/-
3	Total annual income	5,29,000/-	5,75,000/-
4	Tax deduction	23,000/-	42,860/-
5	Total Annual income	5,06,000/-	5,32,140/-
6	Deduction	1/4th 1,26,500/-	1/3rd 1,77,380/-
7	Annual dependency	3,79,500/-	3,54,760/-
8	Multiplier	11	13
9	Total dependency	41,80,000/-	46,11,880/-
10.	Loss of consortium	1,00,000/-	40,000/-
11	Loss of parental consortium	--	80,000/-
12.	Loss of Estate	25,000/-	15,000/-
13.	Funeral expenses	25,000/-	15,000/-
14	Loss of care and guidance for children	1,00,000/-	--
15	Total Compensation	44,30,000/-	47,61,880/-
19.	Enhancement	--	3,31,880/-
20	Interest	7.5% per annum	7.5% per annum

6. Thus, the appeal bearing FAO No.4974/2016 filed by the Insurance Company is dismissed and appeal bearing FAO No.5845/2016 filed by claimants is allowed.

7. Ratio of apportionment and manner of disbursement of compensation, as determined by the Ld. Tribunal remains unchanged.

8. Pending applications, if any, also stand disposed of.

9. A copy of this order be placed on the file of FAO 5845/2016.

10/03/2023 **(Nidhi Gupta)**
Joshi **Judge**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**