101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-8301-2014 (O&M)
Date of Decision :27.02.2023

Subhash and another …Appellants

Versus

Bhopal Singh and others ….Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Amardeep Hooda, Advocate for the appellants.

None for respondent No.1 and 2.

Mr. R.N. Singal, Advocate for the respondent No.3 -Insurance Company.

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B.S. Walia, J. (Oral)

[1] Prayer in the appeal is for modification of award dated 02.04.2014 passed by the learned Motor Accident Claims Tribunal, Rohtak (for short – "the Tribunal") and for enhancement of compensation awarded to the appellants/claimants by taking into account appropriate notional income of the deceased besides by awarding compensation on account of loss of filial consortium, loss of estate, as also enhancing interest payable from 6% to 7.5% per annum.

[2] A perusal of the award reveals that claim petition was filed under Section 166 of the Motor Vehicles Act claiming compensation on account of death of daughter of the appellant, a student of Class-IV aged 12 years as on the date of accident i.e. 04.10.2011.

[3] The learned Tribunal by taking notional income of the deceased at Rs.15000/- per annum, by imposing deduction of 50% of the notional income

towards personal expenses of the deceased and by applying multiplier of 15, awarded a sum of Rs.1,12,500/-,Rs.25,000/- as funeral expenses and Rs.10,000/- as medical expenses, total Rs.1,47,500/- rounded off to Rs.1,48,000/-.

[4] Learned counsel while relying upon the decision's of Coordinate Benches of this Court in FAO No.2834 of 2016 in case titled as **Sunita Devi and another versus Vijay Pal and others** decided on 18.05.2018, FAO No.159 of 2015 titled as **Beet Nath and another versus Gulab Singh and others** decided on 10.07.2017, FAO No.6083 of 2017 titled as **Koshlya Devi and another versus Balwinder Singh @ Binder and others** decided on 29.11.2019 and FAO No.5954 of 2015 titled as **Budh Ram and another vs. Mukul Rohila and others**, decided on 10.01.2023, contends that in the said cases on account of death of 4-5 years/15 year/12 years /6 years old child respectively, notional income of the deceasedtherein was assessed @ Rs.50,000/- per annum, therefore, in the instant case also, the notional income is liable to be assessed at Rs.50,000/- besides, the appellants entitled to beawarded Rs.40,000/- each on account of loss of filial consortium in view of the decision of Hon'ble the Supreme Court in ***Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram, 2018 (4) RCR (Civil) 333***besides, Rs.15,000/- on account of loss of estate in view of the decision of Hon'ble Supreme Court in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017 (16) SCC 680.***Learned Counsel further contends that in view of no deductionhaving beenmade in the case of assessment of notional income, deduction of 50% as made by the Tribunal is also unsustainable.

[5] Learned counsel for the respondent contends that the income of Rs.15,000/- as assessed by the learned Tribunal was rightly assessed in accordance with the second schedule appended to Section 163-A of the Motor

Vehicles Act, therefore, no interference is called for. He however, does not controvert the claim of the appellants for award of filial consortium or compensation on account of loss of estate. He, however, contends that sumof Rs.25,000/- awarded on account of funeral expenses is on the higher side and needs to be scaled down to Rs.15000/- in view of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra).

[6] I have considered the submissions of learned counsel.

[7] Admittedly, in the aforementioned decisions i.e. **Sunita Devi, Beet Nath, Koshlya Devi and Budh Ram's cases (supra)**, decided by the Coordinate Benches of this Court, notional income of a deceased child of 4 to 5 years/15 years/12 years/6 years respectively was assessed @ Rs.50,000/- per annum by relying on the decision of Hon'ble the Supreme Court in **Kishan Gopal and another versus Lala and others, 2013 (4) RCR (Civil) 276**, wherein notional income of a 10 year old child was taken at Rs.30,000/- in respect of an accident of the year 1992 but in**Beet Naths**,**Koshlya Devi&Budh Ram's cases (Supra)** on account of accident and death of 15 / 12 / 6 year old child respectively having taken place in the year 2012 / 27.01.2015 & 13.04.2014 respectively, and by taking into account that in Kishan Gopal's case, Hon'ble the Supreme Court in the case of death of a 10 year old child had assessed the notional income at Rs. 30,000/- in respect of an accident of the year 1992, and value of money had come down drastically since the year 1992, the Coordinate Benches assessed notional income @ Rs.50,000/.

[8] In the light of the position noted above, I see no reason as to why in the instant case in respect of accident and death of a 12 year old girl in the year 2011 who was studying in Class VI,similar notional income i.e.Rs. 50,000/- per annum be not assessed. Ordered accordingly. Further, in view of the decision of Hon'ble the Supreme Court in Pranay Sethi and Magmacase

(supra), the appellants are held entitled to Rs.40,000/- each on account of loss of filial consortium besides are awarded Rs. 15000/- on account of loss of estate and funeral expenses respectively. Apart from the above, in view of the decision of Hon'ble the Supreme Court in **R.K. Malik and another versus Kiran Pal and others**, Law Finder Doc ID #196240, since the accident pertains to the year 2011, the appellants are held entitled to award of interest @ 7.5% insteadof 6%.

[9] Accordingly, in the light of the position noted above, details of compensation awarded by the Tribunal and the compensation assessed by this Court are as under :-

Sr. No.	Head	Amount assessed by Tribunal in Rupees	Amount assessed by this Court in Rupees
1.	Annual notional income	Rs.15000/-	Rs.50,000/-
3.	Dependency	50% of Rs.15000 = Rs.7500/-	Rs. 50,000/-
4.	Multiplier applied	15	15
5.	Compensation awarded	Rs.7500x15= Rs.1,12,500/-	Rs.50,000x 15= 7,50,000/-
6.	Funeral Expenses	Rs.25,000/-	Rs.15000/-
7.	Loss of estate	Nil	Rs.15000/-
8.	Medical expenses	Rs.10,000/-	Rs.10,000/-
9.	Loss of Filial consortium	Nil	Rs.40000/- to each of the appellants/claimants i.e. (Rs. 40000/- x 2 = Rs.80000/-)
10.	Interest	6% per annum	7.5 % per annum
Total		Rs.1,47,500/- rounded off to Rs.1,48,000/-	Rs.8,70,000/-

[10] Accordingly, in the light of the position noted above, the appeal is allowed, award of the learned Tribunal is modified and as against compensation of Rs.1,48,000/- awarded by the learned Tribunal along with interest at the rate of 6% per annum, compensation payable to the appellants/claimants is enhanced to Rs.8,70,000/- along with interest at the rate of 7.5% per annum with effect from the date of the claim petition till date of payment, less payment if any already made, in the proportion as ordered by the learned Tribunal. Recovery rights granted to the Insurance Company in view of the driver of the offending vehicle not having valid driving licence as on the date of accident, are maintained.

(B.S. Walia)
Judge

27.02.2023
ps

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