IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 6540/2016

Date of decision: 26.04.2023.

Komti Dhamla

………………Appellant

Vs.

Jeewan Singh @ Laxman Singh and others

………………Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Chandandeep Singh, Advocate for the appellant

Mr. Joginder Sharma, Advocate for respondent no.2.

Mr. Vinod Gupta, Advocate for respondent no.3.

Nidhi Gupta, J.

Present appeal has been filed by the sole claimant seeking enhancement of compensation of Rs.13.05 lacs granted by the Motor Accident Claims Tribunal, Ludhiana, (hereinafter referred to as 'the Tribunal') vide Award dated 7.4.2016 passed in MACP Case No.3 of 5.3.2015 filed u/s 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). Appellant is the mother of deceased Suni Kumar.

Ld. Tribunal on the appraisal of facts, pleadings and evidence on record held that the deceased had died due to injuries suffered by him in motor vehicular accident that took place on 27.7.2011 due to rash and negligent driving of Canter Tata 909 bearing registration No. PB-10-CJ-2320 (hereinafter referred to as 'the offending vehicle') being driven by respondent no.1, owned by respondent no.2 and insured by respondent no.3.

The Tribunal awarded compensation as above alongwith interest @ 6% per annum from the date of filing of the claim petition till realization. Liability to pay the compensation was joint and several.

Ld. counsel for the appellant seeks enhancement of compensation on the ground that nothing has been granted by the ld. Tribunal on account of future prospects. It is submitted that deceased was 18 years old at time of death, and was working as a Conductor in the offending vehicle at the time of accident and earning Rs.10,000/- per month and therefore, he was entitled to addition of 40% towards future prospects.

In response, it is submitted by the ld. counsel for the Insurance Company that income of the deceased as taken by the Tribunal is inclusive of future prospects. It is submitted that minimum wages at the relevant time was Rs.5000/- per month, however, ld. Tribunal has taken income of the deceased as Rs.10,000/- per month and therefore, no addition on account of future prospects is required to be made.

No other argument has been raised.

Heard ld. counsel.

Perusal of the record shows that prior to the accident in question the deceased was employed as a Conductor on a monthly salary of Rs.10,000/-. This is evident from the testimony of CW1 Rajinder Singh/ attorney of the appellant, as also his evidence by way of affidavit Ex.CW1/A. Admittedly, no evidence in rebuttal of this fact was led by the respondents. Accordingly, it is proved on record that the deceased was earning Rs.10,000/- per month. In any case, it is not clear on what basis it is claimed by ld. counsel for the Insurance Company that income of the deceased was inclusive of future prospects. Even no Minimum Wage Notification has been produced by ld. Counsel for the Insurance Company to prove that minimum wage at relevant time was Rs. 5000/- as stated. Accordingly, there is no merit in the submission of the ld. Counsel for the Insurance Company.

Perusal of the impugned Award shows that ld. Tribunal granted compensation in the following manner:-

Income of the deceased was assessed to be Rs.10,000/- on the basis of evidence on record; age of the deceased was taken to be 18 years at the time of death on the basis of Ex.C2 being the post mortem report of the deceased; as the deceased was a bachelor at the time of his death, ld. Tribunal made a deduction of 50% towards personal expenses. However, ld. Tribunal failed to make addition of 40% towards future prospects which is required in view of judgment of Hon'ble Supreme Court in **National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680B.** Ld. Tribunal correctly applied multiplier of 18 in conformity with the judgment of Hon'ble Supreme Court in **Sarla Verma vs. Delhi Transport Corporation (2009) AIR (SC) 3104.** Ld. Tribunal further granted Rs.25,000/- as funeral expenses; Rs.1 lac towards loss of love and affection, and Rs.1 lac on account of loss of estate. However, undisputedly, as per latest law in **Shri Ram General Insurance Company Limited v Bhagat Singh Rawat & others, C.A.No.2410-2412/2023,** total amount of Rs.70,000/- with 10% increase has to be granted under the conventional heads.

Accordingly, compensation granted by the ld. Tribunal is reworked as under:-

Sr. No.	Head	MACT (in rupees)	Compensation reworked in this appeal (Amount in Rupees)
1.	Monthly income	10,000/-	10,000/-
2.	Future prospects @ 40%	NIL	4,000/-
3.	Monthly income	10,000/-	14,000/-
4	Deduction ½	5000/-	7,000/-
5	Annual dependency	60,000/-	7,000x12= 84,000/-
6	Multiplier 18	60,000x18	84,000x18
7.	Total dependency	10,80,000/-	15,12,000/-
8.	Conventional heads	2,25,000/-	77,000/-
9.	Total compensation	13,05,000/-	15,89,000/-

Interest @ 6% as granted by the ld. Tribunal, is maintained. Accordingly, Appeal stands disposed of as above.

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

26/04/2023.
Joshi

(Nidhi Gupta)
Judge

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