IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

246 **FAO-1753-2018 (O&M)**
Date of decision: 15.05.2023

Ekta Bholewasi & Another

...Appellant(s)

Vs.

Bhupinder Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Achin Gupta, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3/Insurance Company.

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NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.6,97,000/- granted by Motor Accident Claims Tribunal, Faridkot (hereinafter referred to as "the learned Tribunal") vide Award dated 15.09.2017 passed in MACT Case No.09 dated 08.03.2017 filed under Sections 166 read with Section 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). Two claimants are the children of deceased-Sudesh Rani.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Sudesh Rani had died due to injuries suffered by her in a motor vehicular accident that took place on 30.11.2016 due to rash and negligent driving of car bearing registration No.PB-4U-0963 (hereinafter referred to as 'the offending vehicle'), being owned by respondent No.1, driven by respondent No.2 and insured by respondent No.3. Learned

Tribunal awarded compensation as above along with interest @ 6% per annum from the date of filing the claim petition till realisation. Respondents were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation inter alia on the grounds:

a) that prior to her death, the deceased was running a beauty parlour in her house under the name and style of Ekta Beauty Parlour from which she was getting an income of Rs.15,000/- to Rs.20,000/- per month. It is submitted that the deceased was the sole proprietor of the said beauty parlour. However, learned Tribunal has taken income of the deceased as only Rs.6,000/- per month;

b) that even nothing has been awarded by way of future prospects. It is submitted that keeping in mind that the deceased was 44 years of age at time of death, an addition of 25% ought to have been made towards future prospects.

4. In response, it is submitted by learned counsel for respondent No.3/Insurance Company that there is no error in the impugned Award and the same deserves to be upheld being in accordance with law.

5. No other argument is raised on behalf of the parties.

6. I have heard learned counsel for the parties.

7. Perusal of impugned Award shows that in the claim petition, the appellants had mentioned age of the deceased as 44 years

whereas in the post-mortem report (Exhibit P1), age of the deceased has been mentioned as 45 years. Accordingly, learned Tribunal took age of the deceased to be between 44 to 45 years at the time of accident.

8. As regards income of the deceased, though the claimants had examined PW3-Megha who vide her affidavit Exhibit PW3/A had deposed that she used to visit the beauty parlour of the deceased and used to pay Rs.300/- to Rs.400/- per visit, however, the claimants led no documentary proof whatsoever in support of their claim that the deceased was running a beauty parlour. Accordingly, learned Tribunal has assessed monetary value of the gratuitous services rendered by the deceased as a housewife as Rs.6,000/- per month. Even now, nothing has been produced by learned counsel for the appellants to prove that the deceased was running a beauty parlour prior to her death. Even no bill book, account, ledger, register of employees, or any such documentary proof has been placed on record. As such, there is no ground made out to interfere with the assessment made by the learned Tribunal of the monetary value of Rs.6000/- for the gratuitous services rendered by the deceased as a housewife.

9. Further, as the claimants are 2 in number, learned Tribunal correctly made a deduction of 1/3rd towards personal expenses. However, learned Tribunal has failed to grant anything by way of future prospects. As per law laid down by the Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others (2017) 16 SCC 680,** as age of the deceased was between 44 to 45 years at the time of

death, an addition of 25% was required to be made towards future prospects. Learned Tribunal has thereafter correctly applied multiplier of 14. Further, learned Tribunal has granted only Rs.25,000/- towards conventional heads, whereas, as per established legal position, claimants are entitled to Rs.77,000/– under the conventional heads. Therefore, compensation as admissible to the claimants is re-worked as follows:-

Heads	**Granted by MACT**	**Granted by this Court**
Income	Rs.6,000/-	Rs.6,000/- per month
Future prospects	NIL	(25%) Rs.6,000/- + Rs.1,500/- = Rs.7,500/-
Deduction	($1/3^{rd}$) Rs.6,000/- - Rs.2,000/- = Rs.4,000/-	($1/3^{rd}$) Rs.7,500/- - Rs.2,500/- = Rs.5,000/-
Multiplier	(14) Rs.4,000/- x 12 x 14 = Rs.6,72,000/-	(14) Rs.5,000/- x 12 x 14 = Rs.8,40,000/-
Conventional heads	Rs.25,000/-	Rs.77,000/-
Total	**Rs.6,97,000/-**	**Rs.9,17,000/-**

10. Rate of interest of 6% as granted by learned Tribunal is maintained. Ratio of apportionment and manner of disbursement as determined by the learned Tribunal is also maintained. Present appeal accordingly stands **allowed** in above terms.

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

15.05.2023 **(Nidhi Gupta)**
Sunena **Judge**

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