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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**FAO-2563-2018 (O&M)****Date of Decision: 28.04.2023**

Renu and others

....Appellants

Versus

Rajesh Kumar and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. J.S. Saneta, Advocate
for the appellants.Mr. Yashveer Kharb, Advocate
for respondent No.1.Mr. Abhinav Singla, Advocate
for Mr. Amit Goyal, Advocate
for respondent No.2.

ARUN MONGA, J. (ORAL)

The cruel hands of fate ended the excitement of Ravi, all of 24 years and father to be soon, to have a family as his pregnant wife waited for him at home only to get the news that he is no more. He was later blessed with a daughter and she along with widow mother and her grand-parents are the appellants before this court seeking enhancement of the compensation claimed by them on the accidental death Ravi Chhokar. Vide impugned award dated 14.11.2017 rendered by learned Motor Accidents Claims Tribunal, Panipat (for brevity, "*Tribunal*"), compensation of Rs.17,02,796/- was determined.

2. Succinct facts, as noted by learned Tribunal, are as below:

".....On 14.08.2015, deceased Sonu and Ravi were returning to their village Naraina by means of motorcycle No.HR-06P-2296. When they reached at Diwana Road towards Khalila Road near Brick-kiln, a Maruti Suzuki EECO van bearing registration No.HR-10R-9890 being

driven by respondent No.1 at a very high speed and in a rash and negligent manner came from the side of village Khalila and directly hit their motorcycle, due to which, they fell on the road along with the motorcycle but the offending vehicle dragged them to a long distance. Deceased Ravi was shifted to Maharaja Aggarsain Hospital for treatment. Deceased Sonu was taken to Government Hospital, Panipat but he was declared brought dead. Deceased Ravi also died on 17.08.2015 during the course of treatment. A case bearing First Information Report (FIR) No.972 dated 15.08.2015 was registered in Police Station Chandni Bagh, Panipat regarding the said accident.

3. The claim petition bearing no.200 of 2016 (CIS No.430 of 2015) titled "Renu and others Versus Rajesh and others" is respect of death of Ravi Chhokar son of Sh. Ram Kumar. It has further been submitted that the deceased was aged 24 years at the time of his death; he was doing job with Kanodia Global Pvt. Ltd., Pasina Khurd Road, Sewah, District Panipat and his monthly income was Rs.18,500/-. An amount of Rs.2,50,000/- is stated to have been spent on the treatment, transportation and last rites of deceased. Claimant No.1 is the widow while claimants No.2 & 3 are parents of the deceased and claimant No.4 is the minor daughter of the deceased who was born during pendency of this petition. An amount of Rs.35,00,000/- has been claimed as compensation."

3. Upon notice, respondent No.1 herein (driver-cum-owner of the offending vehicle) appeared and filed written statement raising preliminary . objections with regard to maintainability, non-joinder and misjoinder of parties and the petition being false and frivolous. It was averred that the alleged accident took place with some other vehicle and not with the vehicle of respondent No.1 and he was wrongly impleaded in claim petition in collusion with local police with a view to grab money. It was further been pleaded that the alleged criminal case vide FIR No.972 dated 15.08.2015 had been wrongly registered against respondent no.1. Even otherwise, the claimants had demanded excessive compensation amount. In the alternative, it was pleaded that in case it is proved that the alleged accident was caused by respondent No.1, then respondent . no.2 being insurer of the vehicle in question would be solely responsible for the same. Denying other averments of the claim petition, a prayer for its dismissal was also made.

4. Respondent No.2 herein (insurance company) also filed separate written statement disputing the claim of claimants on various grounds. It was pleaded that the claim petition was false, bogus and concocted and the same did not disclose any cause of action against respondent No.2. It was further pleaded that no intimation was received by respondent No.2 from respondent No.1 regarding the accident in question. It was further averred that the driver of vehicle bearing no.HR-IOR9890 did not cause any alleged accident and the same had been got falsely involved by the claimants in collusion and connivance with respondent no.1 and the police in order to extract compensation from the respondent No.2. Further the FIR in question had been falsely got registered with regard to the alleged accident. It was also pleaded that it was a hit and run case and all the criminal proceedings were false and hence, the claim petition was not maintainable. It was further pleaded that the alleged driver of the vehicle in question was not holding a valid and effective driving license and the insured has violated the terms and conditions of the insurance policy and hence, respondent No.2 would not be liable to pay any compensation. Further it was averred that even otherwise, the amount of compensation claimed is highly excessive, exorbitant and without any basis. Denying other averments of the claim petition, a prayer for its dismissal was also made.

5. Learned Tribunal framed the following issues for adjudication:

1. Whether Ravi Chhokar son of Ram Kumar and Sohan Lal @ . Sonu son of Onkar have died in an accident caused with vehicle bearing no.HR-IOR-9890 due to rash and negligent driving of respondent no.1? OPP.
2. To what amount of compensation and from whom, the claimants are entitled? OPP.
3. Whether the insured has violated the terms and conditions of insurance policy, if so, its effect? OPR
4. Relief.

6. On appraisal of record/evidence, learned Tribunal decided all issues in favour of claimants. Consequently, compensation was assessed to the tune of Rs.17,02,796/- along with interest @ 7.5% per annum. Respondents No.1 and 2 were held liable to pay the aforesaid amount of compensation jointly as well as severally.

7. Learned counsel for appellant/claimants would contend that learned Tribunal erred while assessing the income of deceased @ Rs.6500/- per month. It is further contended that he possessed B. Tech degree in Mechanical Engineering and was also working with M/s Kanodia Global Pvt. Ltd. and getting salary of Rs.18,500/- per month. He would further rely upon Uttarakhand High Court judgment dated 17.12.2019 rendered in ***Hukum Singh Barthwal and others Vs. Vijay Gusain and others***, passed in Appeal from Order No.318 of 2013, where the deceased of 26-year old and had B.Tech. Degree, the notional income had been assessed @ Rs.3,00,000/- per annum.

8. Learned counsel for respondent No.2 & 3 have not been able to cite any contrary judgment. However, they would contend that as per law laid down in ***Sarla Verma and others vs. Delhi Transport Corporation and another*** reported in ***2009 (3) The Punjab Law Reporter 22***, 1/3rd deduction for personal expenses of deceased has to be applied instead of 1/4th as father cannot be said to be dependent on income of deceased. Learned counsel for appellants would not dispute this fact.

9. In the premise, income of deceased victim is assessed at Rs.3 Lakh per annum. Applying the principles in cases of ***Smt. Sarla Verma's case (supra)***, ***National Insurance Co. Ltd. v. Pranay Sethi***, reported in ***(2017) 16 SCC 680*** read with ***Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others***, reported in ***2019 (3) SCC (Cri) 153***, I am of the view that compensation deserves enhancement.

9.1 In view of the above discussion, various computations of compensation *qua* each head are modified as below:

Deceased	Ravi Chhokar
Date of accident/death	14.08.2015/17.08.2015
Age	24 years
Marital Status	Married
Claimants	Widow, Minor Daughter and Parents
Income of the deceased (per month)	Rs.25,000/-
Future prospects	40% (Rs.25000+10,000) = Rs.35,000/- per month
Deduction in dependency for personal expenses (widow, daughter and mother)	1/3rd (35,000-11,665)= Rs.23,335/- 23,335x12 =2,20,020/- per annum
Total loss of dependency with Multiplier of 18	Rs.50,40,360/-
Loss of Consortium	Rs.1,76,000/- (Rs.44,000 x 4)
Loss of estate and funeral, expenses	Rs.33,000/- (Rs.16,500/- + Rs.16,500/-)
Medical Treatment expenses (as awarded by Tribunal)	Rs.1,58,596/-
Total	Rs.54,07,956/- (Rs.50,40,360 + Rs.1,76,000/- + Rs.33,000 + 1,58,596/-)
Compensation assessed by the Tribunal	Rs.17,02,796/-
Enhanced amount of compensation to be paid	Rs.37,05,160/- (Rs.54,07,956/---Rs.17,02,796/-)

10. Accordingly, impugned award is modified in terms of above computations. Enhanced compensation shall be payable to claimants along with interest as awarded by learned Tribunal, from the date of filing of claim petition till actual date of payment. Same shall be payable to claimants within a period of 2 months of approaching the insurance company along with web print of instant order, failing which additional compensatory interest of 3% p.a. shall be paid from the date of filing of claim petition till payment. Enhanced compensation amount

after adjusting the compensation, if any, already paid, be disbursed to claimants in terms of the apportionment, as already determined by learned Tribunal.

- 11. In the premise, appeal is disposed of in above terms.
- 12. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 28, 2023
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No