IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO 7879/2017
Date of decision: 12.04.2023

United India Insurance Co. Ltd.

……….Appellant

Vs.

Manjit Kaur and others

……….Respondents

CORAM: **HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vinod Chaudhary, Advocate for the appellant.

Mr. Naveen Sharma, Advocate for respondent Nos.1 to 3.

Nidhi Gupta, J.

1. Present appeal has been filed by the Insurance Company assailing the Award dated 09.08.2017 passed by the learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal')in MACT Petition No.405/2016 filed by the claimants/respondents No.1 to 3 herein u/s 166 of the Motor Vehicles Act,1988 (hereinafter referred to as 'the Act').

2. Brief facts of the case are that the ld. Tribunal on appraisal of the facts, pleadings and evidence adduced before it, concluded that the deceased Rinku Ram had died due to injuries suffered by him in a motor vehicular accident that took place on 01.07.2016 due to rash and negligent driving of Car bearing registration No.CH-03-Z-2168 (hereinafter referred to as the 'offending vehicle') being driven and owned by respondent no.4, and insured by the appellant herein. Vide the impugned Award ld. Tribunal has granted compensation of Rs. 17,80,000/- alongwith interest @ 6% per

annum, to the claimants. Claimants are the widow, and parents of the deceased Rinku Ram.

3(i) Ld. Counsel for the appellant Insurance Company assails the impugned Award primarily on the ground that the learned Tribunal has added future prospects @ 50% whereas the same ought to have been 40%. It is submitted that admittedly the deceased was 27 years of age at the time of death as borne out from Exhibit P-4/matriculation certificate of the deceased, and Ex.P-5/driving licence of the deceased, as also Ex.P-7/Aadhar card of the deceased. It is further submitted that admittedly, the deceased was self-employed, and not salaried and, therefore, future prospects could have been added @ 40% only.

3(ii) It is further submitted by that the 3 claimants are the widow and parents of the deceased and therefore, all were entitled to total consortium of Rs.1,20,000/- only, whereas learned Tribunal has granted 2 lacs towards consortium and loss of love and affection. It is further submitted that even amount of Rs.50,000/- granted towards the funeral expenses, is on the higher side.

4. In response, it is submitted by the ld. Counsel for the claimants/respondents no. 1 to 3 herein, that learned Tribunal is in error in taking income of the deceased as only Rs.7,500/- per month whereas, the deceased was working as a Mason at the time of the death and was earning Rs.15000/- per month. It is submitted that at least income of the deceased ought to have been taken as that of a skilled labourer whereas, the learned Tribunal has assessed his income as admissible to an unskilled labourer. Learned counsel however, admits that this is not the claimants' appeal and therefore, his abovesaid submissions cannot be considered. Further, ld.

Counsel for the claimants has been unable to controvert the other submissions made on behalf of the appellant/insurance Company.

5. Heard ld. Counsel for the parties.

6. I find merit in the submissions made on behalf of the appellant-Insurance Company. A perusal of the record of the case shows that while issuing notice vide order dated 05.12.2017, this Court had directed that compensation amount beyond Rs.13 lacs be not disbursed to the claimants.

7. The record further reveals that claimants had failed to lead any evidence whatsoever, to prove their contention regarding the deceased's vocation and/ or income. Moreover, besides the other evidence on record in form of Exhibit P-4/matriculation certificate of the deceased, and Ex.P-5/driving licence of the deceased, as also Ex.P-7/Aadhar card of the deceased, even as per testimony of PW2 mother of the deceased/ claimant no. 2, deceased was 27 years old at time of death.

8. Accordingly, as per law laid down by the Hon'ble Supreme Court in case of '**National Insurance Company Limited v Pranay Sethi and others (2017) 16 SCC 680'**, '**Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another'** and **'Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and others',** compensation awarded by the learned Tribunal deserves to be reworked as follows:-

HEAD	**MACT (in Rupees)**	**Reworked in present appeal (in Rupees)**
Monthly Income	7500	7500
Annual Income	7500x12=Rs.90, 000/	7500x12=Rs. 90,000/-

Deduction towards personal expenses	1/3rd= 60,000/-	1/3rd= 60,000/-
Future prospects	50% = 90,000/-	40% = 84,000/-
Multiplier	17	17
Total dependency	17x90,000=15,30,000/-	17x84,000=14,28,000/-
Spousal consortium	1 lac	40,000/-
Filial consortium	2 lacs	40,000x2=80,000/-
Funeral expenses	50,000/-	15,000/-
Loss of Estate	NIL	15,000/-
Total	**17,80,000/-**	**15,78,000/-**

9. Interest, as granted by the ld. Tribunal, is maintained @ 6% per annum. Ratio of apportionment, and manner of disbursement of compensation as determined by the ld. Tribunal remains unchanged.

10. In net result, the present appeal stands **allowed** in above terms.

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

12.04.2023 **(Nidhi Gupta)**
ps-I **Judge**

Whether speaking/reasoned Yes

Whether reportable Yes/No