IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5444-2018 (O&M)
Reserved on: 12.10.2022
Pronounced on:January 12, 2023

KRISHNA AND OTHERS

......Appellants

VERSUS

RAJU YADAV AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA.

Present: Ms. Abha Rathore, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3.

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DEEPAK MANCHANDA J.

1. This is an appeal filed by the appellants/claimants (the legal heirs) challenging the award dated 06/03/2018 passed by the Motor Accidents Claims Tribunal, Faridabad (hereinafter referred to as the 'Tribunal') on the ground of insufficient compensation awarded to them on account of the death of deceased Parveen Kumar Panchal.

2. The facts emanating from the present case are that on 15/06/2014 at about 5:45 AM the deceased was standing on the roadside of Jaipur-Delhi Highway in front of M/s Sunbeam Auto Private Ltd., 38/6 km. Stone, Narsingpur, Gurgaon in his uniform and was waiting for his co-employee to go for his duty in M/s Sunbeam Auto Private Limited in the morning shift. At the same moment, a truck make Tata 2515 bearing Registration No.RJ-32G-2793 being driven by respondent No.1 in a rash and negligent manner came there from the side of Hero Honda Chowk, Delhi and hit the deceased, who

immediately fell and suffered multiple fatal injuries all over his body. Respondent No.1 (driver of the truck) ran away from the spot after leaving the truck. Thereafter the deceased was taken to Civil Hospital, Gurgaon, but the doctor declared him as 'brought dead'. The said accident was witnessed by one Dinesh Kumar, a co-worker in the M/s Sunbeam Auto Private Ltd. and on his statement FIR No.316 dated 15/06/2014 under Section 279, 304-A of IPC was registered against respondent No.1. The post-mortem of the dead body was conducted on the same day at about 11:30 AM by the Doctors of Civil Hospital, Gurgaon. After loss of earning family member, the appellants, who are legal heirs herein, filed the claim petition under Section 166 of the Motor Vehicles Act for the grant of compensation of ₹ 55 lakhs and ₹50,000 as no-fault liability under Section 140 of the Motor Vehicles Act, wherein the Tribunal vide award dated 07/09/2016 granted compensation of ₹24,52,100/- along with interest at the rate of 9% per annum from the date of filing the claim petition till realization. But feeling dissatisfied with the same, the said award was challenged through FAO No.1843 of 2017 before this Court where vide order dated 07/12/2017 it was remitted back to the Tribunal to re-calculate the quantum of compensation after considering the exhibits available on record. However, the Tribunal re-calculated the amount under the head of basic pay, house rent, education allowance, VDA and vide impugned supplementary award dated 06/03/2018 enhanced the amount to the tune of ₹28,48,516/- by additionally granting ₹3,96,416/- (wrongly calculated as ₹3,26,416) in place of ₹24,52,100/- which had been granted vide earlier award dated 07/09/2016 and same has already been received by the appellants. After enhancement of aforesaid amount vide supplementary award dated 6.3.2018, the appellants again preferred this appeal finding the same as insufficient and have prayed for enhancement of the compensation by modifying the impugned supplementary award dated 6.3.2018.

3. Learned counsel for the appellants has submitted that even after remanding back the matter to the Tribunal, the Tribunal has failed to assess the income of the deceased whereas the pay slips of the deceased as Ex.PW4/2 to Ex.PW4/6 along with the Form-16 i.e. Ex.PW4/7 to Ex.PW4/9, were produced before the Tribunal for consideration, but said Form-16 were ignored, while passing the award and Tribunal erroneously assessed the income of the deceased as ₹13,821/- by relying upon Ex.PW4/5, i.e. pay slip of the deceased for the month of May 2014 including perks and allowances as the base for assessing his income. She further argues that the said impugned award dated 7/9/2016 was challenged before this Court vide FAO No.1843/2017 wherein this Court vide order dated 07/12/2017 remanded back the matter to the Tribunal, but in reconsideration vide supplementary impugned award dated 06/03/2018, the Tribunal again committed an error in not considering the gross salary of the deceased, whereas the same was ₹3,76,026/- per annum as per Form-16 (Ex.PW4/8). Learned counsel for the appellant submits that as per the settled proposition of law, the salary has to be taken as gross earning minus income tax deduction whereas the Tribunal while passing the impugned award has wrongly taken only basic pay, HRA, education allowance and VDA for calculating the monthly income. Learned counsel has again argued that as per Ex.PW-4/8, Form-16 for the period 01/04/2013 to 31/03/2014, it shows that the income of the deceased was ₹3,76,026/- per annum and after calculation, his monthly income comes to ₹31,103/- per month with income tax deduction of ₹2,781/-, therefore, the income of the deceased should have been taken as ₹31,103/- per month and

has prayed that accordingly, the impugned award requires modification by enhancing the monthly income as shown in Form-16 (Ex.PW4/8), which was not considered while passing the impugned supplementary award.

4. On the other hand, learned counsel for respondent No.3-Insurance Company supported the award passed and submitted that the compensation awarded by the Tribunal is justified and needs no modification, as has been prayed by the appellants.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. Given the contentions raised by the appellants and the material placed before this Court, as per the document/exhibit, i.e. Ex.PW4/8 produced before the Tribunal, the gross salary of the deceased was ₹3,76,026/- per annum and the record shows that Ex.PW4/8 was never analyzed in the first round of litigation and without referring to the Ex.PW4/8, the deceased's salary was considered as ₹13,821/- for the purpose of granting compensation. The said award dated 07/09/2016 was challenged by filing FAO No.1843 of 2017 before this Court and vide order dated 07/12/2017, the appeal was remitted back to the Tribunal with a specific observation for re-calculating the quantum of compensation in accordance with law after considering the exhibits.

7. In pursuance to the order dated 07/12/2017 in FAO-1843-2017, a supplementary impugned award dated 06/03/2018 was passed which has been challenged through this present appeal on the same plea by referring to the documents filed as exhibit(s) raising the grouse that the salary of the deceased was not considered properly and it seems that same was not appreciated despite directions of this Court, as after the passing of the order dated

07/12/2017, the impugned supplementary award has been passed and the Tribunal only considered the salary slips Ex.PW4/2 of February 2014, Ex.PW4/3 of March 2014, Ex.PW4/4 of April 2014, Ex.PW4/5 of May 2014, Ex.PW 4/6 for the month of June 2014, whereas the accident had taken place on 15/06/2014 and therefore, for the purpose of calculation, his salary slip Ex.PW4/5 for the month of May 2014 should have been taken into consideration. Moreover, a perusal of the material available on record would show that even no such explanation or finding has been recorded as to why Form-16 (Ex.PW4/8) has not been relied upon for calculating the salary and there is also no whisper about the said document. The findings recorded by the Tribunal are reproduced below:-

> *"4. In para No.23 of award dated 07.09.2016, my learned predecessor Dr. Pankaj, the then Motor Accident Claim Tribunal, Faridabad awarded compensation and described the same through calculation which is re-produced below:-*

Table no.1		
Sr. No.	*Heads*	*Calculations*
i)	*Salary*	*₹ 13,821/- per month*
ii)	*30% of above (i) to be added as future prospects*	*₹ 13,821/- per month + ₹ 4146/- = ₹17967/- per month*
iii)	*1/4th of (ii) to be deducted as personal expenses of the deceased*	*₹ 17967/- - ₹4492/- = ₹ 13,475/- per month*
iv)	*Compensation after multiplier of 13 is applied*	*₹ 13,475/- x 12 x 13 = ₹ 21,02,100/-*
v)	*Loss of consortium*	*₹ 1,00,000/-*
vi)	*Expenses incurred on last rites of the deceased*	*₹ 50,000/-*
vi)	*Towards depriving*	*₹ 2,00,000/-*

	the petition nos. 2 and 3 of their guardian	
	Total compensation awarded	*₹ 21,02,100/- + ₹ 1,00,000/- ₹ 50,000/- + ₹ 2,00,000/- = ₹ 24,52,100/-*

5. As per order of Hon'ble High Court, this court has to find out that what was the actual income of deceased Parveen Kumar Panchal at the time of accident and further whether my learned predecessor awarded compensation under the conventional head on higher side.

6. In order to prove the income of deceased, petitioners examined PW-4 Ashok Kumar son of Shri Babu Singh. As per his statement deceased was employee of Sunbeam Auto Private Limited, Gurgaon. He was dye Fitter. He produced and proved on the record his salary slips Ex.PW4/2 of February 2014, Ex.PW4/3 of March 2014, Ex.PW4/4 of April 2014, Ex.PW4/5 of May 2014, Ex.PW4/6 for the month of June 2014. The impugned accident had taken place on 15.6.2014. Therefore, for the purpose of calculation his salary slip Ex.PW4/5 of the month of May 2014 can be taken into consideration. Undoubtedly, he was income tax payee. This tribunal is of the view that in order to avoid any kind of confusion it is better to mention the exact contents of salary slip Ex.PW4/5 as mentioned on next page:-

Sunbeam Auto Pvt. Limited Gurgaon							
Pay & Payslip For The Month of May 2014							***2596***
Department Code & Name	*28*	*TOOL ROOM DIE MAINTENANCE*		*Working Days*	*26.0*	*Card No.*	
Employee Name	*PRAVEEN KUMAR PANCHAL*			*Weekly Off*	*4.0*	*Balance Loan*	*42150.00*
Father's/Husband's Name	*SH. OM PARKASH*			*Leave With Pay*	*1.0*	*Balance Bank Loan*	*0.00*
Designation	*DIE FITTER*			*Sanctioned Leave*	*0.0*	*Leaves Earned*	*66.0*
PF & %age	*6473*	*30%*		*Absent*	*0.0*	*Leaves Taken*	*2.0*
	UAN	*100279335263*		*Payable Days*	*31.0*	*Balance Leaves*	*64.0*
PARTICULARS	***RATE***		***EARNINGS***	***PARTICULARS***	***DEDUCTIONS***	***PAYABLE AMOUNT***	
Basic	*10950.00*		*10950.00*	*Provident Fund*	*4193.00*	*Net Payable (Rs.)*	*10341.00*

House Rent Allowance	*30.00*	*3285.00*	*ESI*	*0.00*	*Net Rounded (Rs.)*	*10341.00*
Transport Allowance	*420.00*	*420.00*	*Income Tax*	*190.00*		
Washing Allowance	*255.00*	*255.00*	*Loan*	*1500.00*		
Attendance incentive	*875.00*	*910.00*	*Housing Loan*	*22850.00*	***ARREAR DAYS***	
Magazine Allowance	*0.00*	*0.00*	*Bank Loan*	*0.00*	*Working Days*	*0.0*
Education Allowance	*350.00*	*350.00*	*LIC*	*0.00*	*Weekly Off*	*0.0*
Furnishing Allowance	*0.00*	*0.00*	*Car Loan*	*0.00*	*Leave with Pay*	*0.0*
Servant Allowance	*0.00*	*0.00*	*Misc. Deduction*	*0.00*	*Sanctioned Leave*	*0.0*
Telephone Allowance	*0.00*	*0.00*	*Special Deduction*	*0.00*	*Absent*	*0.0*
VDA	*3025.67*	*3025.67*	*Stamp*	*0.00*		
Ex-Serviceman Allowance	*0.00*	*0.00*	*Welfare Fund*	*10.00*		
Arrear (Basic)		*0.33*	*Canteen Lunch*	*119.00*		
Arrear (HRA & Misc.)		*0.00*				
Medical Allowance		*657.00*			***Quarterly Attendance Award***	
Bonus		*8400.00*			*0.00*	
LTA/Leave with Wages		*10950.00*				
Total amount (Rs.)	*19160.67*	*39203.00*	*Total Amount (Rs)*	*28862.00*		
Gross Income: 111901.00 Taxable Income : 100370.00 Tax Deducted : 380.00 Tax Payable : -380.00						
Efficiency Award Slip for the Month of May 2014						

Award Amount	*2384.00*	*Milk/Lemon*	*442.00*	*Regular Coupen*	*52*
Incentive Amount	*10755.00*	*ESI Deduction*	*0.00*	*Award Coupen*	*14*
Night Allowance	*240.00*	*Net Amount (Rs)*	*13821.00*	*Total Coupen*	*66*
Total Amount Rs.24162.00 Credited in CITIBANK N.A. A/c No.5116137226					

7. This tribunal is of the view that the expenses under the head of transportation allowance, washing allowance, attendance incentive were meant only for the deceased. Meaning thereby, it was not part of monthly income of deceased. Leave travel allowance, leave with wages head were also having direct nexus with the deceased. LTA and leave with wages was not paid to the deceased during the month of March 2014 and June 2014. This fact is very much clear from the salary slips Ex.PW4/3 to Ex PW4/6 respectively. Similarly, the amount mentioned in E PW4/5 under the head of efficiency awards and bonus were also meant *for the deceased. He was entitled to those benefits during the actual performance of his duties.*

8. It is revealed from the salary slip Ex PW4/5 that the amounts under the head of basic pay, house rent, education allowance, VDA are actually the amounts on the basis of which the compensation is required to be calculated for the dependents of deceased. Therefore, this tribunal proceed to calculate the compensation on account of death of Praveen which is depicted in the table below:-

Table no.2		
Sr. No.	*Heads*	*Calculations*
i)	*Actual admissible Salary for the purposes of calculation*	*₹ 18,267/- per month*
ii)	*30% of above (i) to be added as future prospects*	*₹ 18,267/- per month + ₹ 5480/- = ₹23,747/- per month*
iii)	*1/4th of (ii) to be deducted as personal expenses of the deceased*	*₹ 17,811/- per month*
iv)	*Compensation after multiplier of 13 is applied*	*₹ 17,811/- x 12 x 13 = ₹ 27,78,576/-*

9. As per case titled National Insurance Company Limited Versus Pranay Sethi and Others Special Leave Petition no.25590 of 2014 under conventional heads which depicts in table below:

Table no.3		
Sr. No.	*Heads*	*Amount awarded under heads*
i)	*Loss of estate*	*₹ 15,000/-*
ii)	*Loss of consortium*	*₹ 40,000/-*
iii)	*Funeral expenses*	*₹ 15,000/-*
	Total	*₹ 70,000/-*

10. The total amount of compensation which this tribunal has calculated afresh is depicted in the table below:

Table no.4	
Amount calculated mentioned in table no.2	*₹ 27,78,576/-*
Amount calculated mentioned in table no.3	*₹ 70,000/-*
Total	*₹ 28,48,516/-*

11. It is fairly conceded by counsel for the parties that amount awarded vide award dated 7.9.2016 has already been paid to the petitioners. Therefore, this amount is required to be subtracted from the total amount of compensation awarded by the tribunal. This amount is mentioned in following table:

Table no.5	
Amount calculated by this tribunal	*₹ 28,48,516/-*
Amount already received by the petitioners	*₹ 24,52,100/-*
Amount which now the petitioners have to received	*₹ 3,26,416/-*

8. A perusal of the aforementioned findings reveals that while passing the impugned awards dated 7/9/2016 as well as supplementary award dated 06/03/2018,despite the said Ex. PW 4/8 being on record the same was not appreciated by the Tribunal.

9. Hence, the plea of the appellants has substance to an extent that Tribunal failed to consider Form-16 while considering the salary of the deceased. This Court has perused Ex.PW4/7 dated 29/06/2013, and Ex.PW4/8 dated 27/05/2014, exhibited on 06/10/2015. As per Ex.PW4/7, the gross salary of the deceased is shown to be ₹3,16,661/- and in Ex.PW4/8, the same is ₹3,76,026/- as argued by the learned counsel for the appellants. Even in the second round of litigation also, vide impugned supplementary award dated

06/03/2018, the Tribunal wrongly assessed the monthly income as ₹17,811/- and an enhanced amount of ₹3,96,416/- was awarded. On the other hand, the income tax return indicates an annual income of ₹3,76,026/- in the relevant assessment year and the same being the statutory document should have been considered by the Tribunal while assessing the monthly income of the deceased, but the Tribunal failed to consider the same and only considered the pay slips of the deceased for determination of the compensation which has caused loss to the appellants/claimants who are entitled to the same. The Hon'ble Apex Court in various judicial pronouncements has considered the aspect of income stating therein that the income means actual income less the tax paid. In the case of ***National Insurance Company Limited versus Pranay Sethi and others: 2017 (4) RCR (Civil) 1009*** while dealing with the same issue the Hon'ble Apex Court has observed as under:-

> *" XXX*
>
> *46. At this stage, we must immediately say that insofar as the aforesaid multiplicand/multiplier is concerned, it has to be accepted on the basis of income established by the legal representatives of the deceased. Future prospects are to be added to the sum on the percentage basis and "income" means actual income less than the tax paid. The multiplier has already been fixed in Sarla Verma which has been approved in Reshma Kumari with which we concur.*
>
> *XXX*
>
> *61. In view of the aforesaid analysis, we proceed to record our conclusions:-*
>
> *(i) The two-Judge Bench in Santosh Devi should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in Sarla Verma, a judgment by a coordinate Bench. It is because a coordinate Bench*

of the same strength cannot take a contrary view than what has been held by another coordinate Bench.

(ii) As Rajesh has not taken note of the decision in Reshma Kumari, which was delivered at earlier point of time, the decision in Rajesh is not a binding precedent.

(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

(v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

(vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."

10. In the case of ***Malarvizhi and others V/s United India Insurance Company Limited & another: SLP (C) No. 9630-31/2019 dated 09.12.2019,*** the Hon'ble Apex Court has observed as under:-

" xxxxx

9. The rival submissions fall for our consideration.

10. The Tribunal proceeded to determine the agricultural income arising from 36.76 acres of land on the basis of two judgments of the High Court. The Tribunal arrived at two different figures by applying the decisions and proceeded to determine the agricultural income on an average of the two amounts. The Tribunal superimposed a possible value of income from agricultural land despite a clear indication in the income tax returns of the income from agricultural land. The method adopted by the Tribunal is not sustainable in law. On the other hand, the High Court has proceeded on the basis of the income reflected in the income tax returns for the assessment year 1997-1998. The relevant portion of the return reads:

Income from House property	*Rs.1,920*
Business profit (other than 14.b) -	*Rs.1,21,071*
Net Agricultural income	*Rs. 88,140*

The tax return indicates an annual income of Rs 2,11,131 in the relevant assessment year. Mr Jayanth Muth Raj, learned Senior Counsel appearing on behalf of the appellant contended that other documents were marked which reflected the income of the deceased. We are in agreement with the High Court that the determination must proceed on the basis of the income tax return, where available. The income tax return is a statutory document on which reliance may be placed to determine the annual income of the deceased. To the benefit of the appellants, the High Court has proceeded on the basis of the income tax *return for the assessment year 1997-1998 and not 1999-2000 and 2000-2001 which reflected a reduction in the annual income of the deceased.*

11. Learned Senior Counsel appearing on behalf of the appellants drew the attention of this Court to the judgment of this Court in New India Assurance Company v Yogesh Devi 2012 (2) CRC (Civil) 536to contend that this Court may reasonably determine the income that accrues to the deceased and also compute the expenses incurred in the upkeep of agricultural land. In that case, a two judge Bench of this Court dealt with a claim where "there was no evidence regarding the amount of income derived from the abovementioned properties." The only evidence available in regard to the monthly income of the deceased was the statement of the claimant. In the present case, the High Court has relied on the income tax return of the deceased. Further, the Court in New India Assurance opined that though a court may be required to account for the depletion in the net income accruing from the assets of the deceased on account of payments for engaging managers, evidence must be adduced to compute the depletion. The Court held:

> *"In the normal course the claimants are expected to adduce evidence as to what would be the quantum of depletion in the income from the abovementioned asset on account of the abovementioned factors."*

In the present case, no evidence was adduced by the appellants at any stage of the proceedings to assist in the computation of the depletion in the net income which accrues to the deceased. The judgment of this Court in New India Assurance does not help the case of the appellants.

12. It was then contended by Mr Jayanth Muth Raj that this Court must add to the annual income of the deceased, depreciation costs on capital assets to the amounts of Rs 21,642, 74,685 and 7701 as reflected in the tax return for the assessment year 1997-1998. We are unable to accede to this contention. Depreciation is the deduction allowed for the decline in the real value of tangible or intangible assets over its useful life. Its value varies over time and cannot amount to tangible income for the purposes of computing annual income in a claim before the MACT.

> *13. Mr Jayanth Muth Raj has then drawn our attention to the balance sheet dated 31 March 1997 of Pavai Wines, Sholinghur for the assessment year 1997- 1998. An annual amount of Rs 1,04,987 is reflected as payment for a prepaid license fee to the Tamil Nadu Government. In the peculiar circumstances of the case, this amount, having been paid upfront and for a future period is to be added to the annual income of the deceased. Thus, the net annual income of the deceased is: Rs 2,11,131 + 1,04,987 = Rs 3,16,118."*

11. In the case of ***National Insurance Company Limited V/S Birender and others 2020 (11) SCC 356,*** while dealing with similar issue, the Hon'ble Apex Court has observed as under:-

> *"19. Reverting to the determination of compensation amount, it is noticed that the Tribunal proceeded to determine the compensation amount on the basis of net-salary drawn by the deceased for the relevant period as ₹16,918/- per month, while taking note of the fact that her gross-salary was ₹ 3,123/- per month (presumably below taxable income). Concededly, any deduction from the gross-salary other than tax amount cannot be reckoned. In that, the actual salary less tax amount ought to have been taken into consideration by the Tribunal for determining the compensation amount, in light of the dictum of the Constitution Bench of this Court in paragraph 59.3 of Pranay Sethi (supra).*
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> *20. Similarly, the High Court despite having taken note of the submission made by the respondent Nos.1 and 2 that the deduction for personal expenses of the deceased should be reckoned only as one-third (⅓rd) amount for determining loss of dependency, maintained the deduction of 50% towards that head as ordered by the Tribunal. This Court in Pranay Sethi (supra), in paragraph 37, adverted to the dictum of this Court in Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr., 2009(3) RCR (Civil) 77 : (2009) 6 SCC 121 (para 30) with approval, wherein it is held that if the dependant family members are 2 to 3, as in this case, the deduction towards personal and*

living expenses of the deceased should be taken as one-third (⅓rd). In other words, the deduction towards personal expenses to the extent of 50% is excessive and not just and proper considering the fact that the respondent Nos.1 and 2 alongwith their respective families were staying with the deceased at the relevant time and were largely dependant on her income.

21. Be that as it may, the Tribunal, for excluding the amount received by the deceased as family pension due to demise of her husband, had noted in paragraph 26, as under:-

> *"26. Learned counsel for the claimants further requested that about to family pension being drawn by the deceased also be calculated for the purpose of assessing the compensation. This contention and assertion of learned counsel for the claimants does not carry any conviction with the Tribunal because the deceased was getting family pension in her own right as the widow of the deceased and cannot be termed as her income for the purpose of computing the amount of compensation."*

The High Court, without reversing the said finding, proceeded to include the amount of ₹7,000/- per month received by the deceased as pension amount after demise of her husband. We are in agreement with the view taken by the Tribunal and for the same reason, have to reverse the conclusion recorded by the High Court to include the said amount as loss of dependency. That could not have been taken into account, as the same was payable only to the deceased being widow and not her income as such for the purpose of computing the amount of compensation.

22. Considering the above, respondent Nos. 1 and 2 would be entitled for compensation to be reckoned on the basis of loss of dependency, due to loss of gross salary (less tax amount, if any) of the deceased and future prospects and deduction of only one-third (⅓rd) amount towards personal expenses of the deceased.

> *As regards the multiplier '13' applied by the Tribunal and the High Court, the same needs no interference. As a result, on the facts and in the circumstances of this case, the amount payable towards compensation will have to be recalculated on the following basis:-*
>
> > *Loss of dependency due to loss of income calculated at ₹ 31,26,229.60/- [(Rs.23,123/- x 12 x 13) + (30% future prospects) - (⅓rd deduction for personal expenses)]. In addition, the claimants would be entitled for a sum of ₹70,000/- towards conventional heads in terms of dictum in paragraph 59.8 of Pranay Sethi (supra). Thus, a total sum of ₹ 31,96,230/- (Rupees thirty-one lakhs ninety-six thousand two hundred thirty only), as rounded off, is payable to the claimants."*

12. In the light of the aforementioned judicial precedents as well as the factual aspects, this Court is of the view that the learned Tribunal failed to consider the gross salary of the deceased, i.e. ₹3,76,026/- as per Form-16 (Ex.PW4/8) which should have been reckoned while deciding the compensation and and after deducting tax amount of ₹2,781/-, the same needs to be considered for determination of the enhanced compensation amount.

13. Considering the above, the appellants would be entitled to compensation to be reckoned based on gross salary (less tax amount) indicated in income tax return of the deceased (Ex.PW4/8) alongwith future prospects and deduction of only 1/3rd amount towards personal expenses of the deceased. As regards the multiplier of '13' applied by the Tribunal, the same needs no interference. As a result of the facts and circumstances of this case, the amount payable towards compensation will have to be recalculated.

14. In the given discussion, this appeal is allowed in the

aforementioned terms, the impugned supplementary award dated 06/03/2018 read with Award dated 07/09/2016 is modified by enhancing the amount of compensation awarded by the Tribunal, which is assessed as under:-

Age	46 years	
Occupation	Die Fitter	
Claimants	Wife, 2 children and father	
Sr. No.	**Heads of Claim**	**Enhanced Amount**
1.	Annual Gross Salary	₹3,76,026/-
2.	Total Tax on Annual Gross Salary ₹2,781/-	₹3,76,026 – ₹2,781/- = ₹3,73,245/-
3.	Monthly Salary ₹3,73,245 ÷ 12	₹31,103/-
4.	Add increase of 30% towards future prospects in Monthly Salary (₹31,103/- x 30% = ₹9,331/-)	₹31,103/- + ₹9,330/- = ₹40,434/-
5.	Deduction-1/3rd of ₹40,434/- = ₹13,478/-	₹40,434 - ₹13,478 = ₹26,956/-
6.	Multiplier of 13 is applied	₹26,956 x 12 x 13 = ₹42,05,136/-
	Total	₹42,05,136/-
Compensation awarded by the High Court : ₹42,05,136/- (-) Compensation awarded by the MACT : ₹28,48,516/- Enhanced Compensation : ₹13,56,620/-		

15. The enhanced amount of compensation awarded over and above ₹24,52,100/- (already received by the appellants) by the Tribunal vide supplementary impugned award dated 6/3/2018 as well as by this Court (₹3,96,416 + ₹13,56,620/-) is directed to be paid to the appellants alongwith interest at the rate of 6% per annum from the date of filing of the claim petition till payment in the proportion as awarded by the Tribunal.

16. All the pending applications, if any, are also disposed of.

(DEEPAK MANCHANDA)
JUDGE

January 12, 2023
Nisha Yadav

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