

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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FAO-7359-2018 (O&M)
Date of decision: 04.05.2023

Budh Ram & Others
Vs.
Gurdayal Singh & Others
...Appellant(s)
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sanjeev Majra, Advocate
for the appellants.

Mr. Radhe Shyam Sharma, Advocate
for respondent No.3/Insurance Company.

NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.6,10,000/- granted by Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as "the learned Tribunal") vide Award dated 04.08.2018 passed in MACT No.55 of 2016 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The three claimants are the widower and two minor children of the deceased-Salochna, who was 40 years of age at time of death.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Salochna had died due to injuries suffered by her in a motor vehicular accident that took place on 03.09.2016 due to rash and negligent driving of truck bearing registration No.HR-58A-9994 (hereinafter referred to as "the offending vehicle") being driven by

respondent No.1, owned by respondent No.2 and insured by respondent No.3. Learned Tribunal awarded compensation as above along with interest @ 7% per annum. 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 nothing has been granted by way of future prospects, and loss of love & affection;

b) that only Rs.40,000/- has been granted towards loss of consortium which should be Rs.1,00,000/-; only Rs.15,000/- has been granted towards funeral expenses which should be Rs.25,000/- and only Rs.15,000/- has been granted towards loss of estate which should also be Rs.25,000/-.

4. In response, it is very fairly admitted by learned counsel for respondent No.3/Insurance Company that an addition of 40% ought to have been made towards future prospects. It is however, submitted that all amounts as granted by the learned Tribunal under conventional heads are as per law laid by Hon'ble Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and Others (2017) 16 SCC 680**.

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

6. I have heard learned counsel for the parties.

7. Perusal of record of the case shows that though it was the pleaded case of the appellants that the deceased was a homemaker and doing knitting and stitching work and was earning Rs.20,000/- per

month yet, as no evidence in this regard was led by them, learned Tribunal assessed annual value of the gratuitous services rendered by the deceased as homemaker as Rs.36,000/- per annum. Further, though, it was the pleaded case of the claimants that deceased was 36 years of age, however, appellant No.1 as PW2 had testified that age of the deceased was 37 years, whereas in the post-mortem report (Exhibit P8), age of the deceased was shown to be 40 years. Accordingly, learned Tribunal took age of the deceased as 40 years on basis of PMR Ex.P8. Learned counsel for the appellants does not dispute the age of the deceased to be 40 years. Thus, learned Tribunal has correctly applied multiplier of 15. Learned Tribunal has further granted sum of Rs.70,000/- under conventional heads. The same is as per law laid down by the Hon’ble Supreme Court in **Pranay Sethi (supra)**. In my view, there is no error in compensation as awarded by the learned Tribunal except, claimants are entitled to addition of 40% towards future prospects.

8. Accordingly, compensation payable to the appellants is re-worked as follows:-

Heads	Awarded by MACT	Awarded by this Court
Income	Rs.36,000/- per annum	Rs.36,000/- per annum
Future prospects	--	(40%) Rs.36,000/- + Rs.14,400/- = Rs.50,400/-
Multiplier	(15) Rs.36,000/- x 15 = Rs.5,40,000/-	(15) Rs.50,400/- x 15 = Rs.7,56,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Loss of estate	Rs.15,000/-	Rs.15,000/-
Loss of consortium	Rs.40,000/-	Rs.40,000/-
Total	Rs.6,10,000/-	Rs.8,26,000/-

9. Interest @ 7% as awarded by learned Tribunal is maintained. Ratio of apportionment and manner of disbursement of compensation as determined by learned Tribunal is maintained. In view of the above facts, present appeal accordingly stands **partly allowed** in above terms.

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

04.05.2023
Sunena

(Nidhi Gupta)
Judge

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