**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**FAO-80-2019 (O&M)
Decided on : 06.09.2023**

Lali Devi

. . . Appellant(s)

Versus

Vipul Batra @ Vicky and Ors.

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Gulshan Nandwqani, Advocate
for the appellant(s).

Mr. Punit Jain, Advocate
for respondent No.3 – Insurance Co.

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SANJAY VASHISTH, J. (Oral)

CM-457-CII-2019

i. Prayer in this criminal miscellaneous application is for condoning the delay of 31 days in filing the present appeal.

ii. Notice of this application was issued.

iii. After hearing learned counsel for the parties and in view of the grounds mentioned in the application, the delay of 31 days in filing the appeal is hereby condoned.

Civil Misc. application stands disposed of.

FAO-80-2019 (O&M)

1. The present appeal has been filed by the appellant/petitioner/claimant (hereinafter referred as claimant) in MACT Case No. 13 of 2017, dated 17.01.2017, for modification of award dated 22.05.2018, passed by Ld. Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'Ld. Tribunal') by way of seeking enhancement of amount of compensation, on account of death of 'Dhola Ram' (son of

claimant) in a motor vehicular accident who was unmarried at the time of the accident.

2. Sole claimant in the MACT case was mother of the deceased – Lali Devi and the present appeal before this Court has also been filed by her.

3. Briefly stated facts of the case are that on 21.11.2016,deceased was going from his workshop to his sister's home on his motorcycle but when he reached in front of Mahendra Tent House, offending car bearing No. HR-81-2130 came from Heera Nagar Colony Bawal side in a rash and negligent manner and crashed into him. Dhola Ram (deceased) sustained multiple injuries and ultimately, succumbed to them.

Accordingly, FIR No.203 dated 22.11.2016 under sections 279, 337, 304-A IPC was registered with the Police station, Bawal.

4. Claimant filed a claim petition under Section 166 of the Motor Vehicle Act, 1988, for seeking compensation to the tune of Rs. 50,00,000/- (Fifty lacs). However, after going through the record, appreciating the evidences, examining the witnesses and hearing the arguments of both the sides, Ld. Tribunal assessed the age of the deceased as 19 years; his monthly income as Rs.9,300/- as an unskilled labourer as per the notification of Haryana w.e.f. July 1, 2016; added 40% to the income as future prospects; applied the multiplier of 18; deducted ½ (half) of his income on account of monthly expenses; provided Rs. 15,000/- on account of loss of estate and Rs.15,000/- on account of funeral expenses each; medical expenses to the tune of Rs. 74,957/- and accordingly, awarded compensation to the claimant to the tune of Rs.15,11,117/- payable by respondents severally and jointly with interest @7% per annum from the date of filing of the petition till its actual realization.

5. Although, father of the deceased – Sh. Sube Singh, was not impleaded in the MACT Case neither as a co-petitioner nor as a proforma respondent as the counsel for the petitioner pleaded that father of the deceased is a big-boozer, still, Ld. Tribunal held him entitled for half of the share of the amount of compensation being the father of the deceased.

6. Appellant/petitioner/claimant has filed the present petition seeking enhancement of the compensation as awarded by the Ld. Tribunal.

7. While addressing arguments, Counsel for the appellant contends that the Ld. Tribunal has erred in assessing the income of the deceased despite a categoric deposition by Ram Niwas – PW 3 that he used to pay Rs. 12,000/- per month to the deceased. Additionally, counsel highlights that the compensation awarded for the loss of estate and funeral expenses, set at a mere Rs. 15,000 each, is notably low. Furthermore, counsel points out the absence of compensation under the category of filial consortium for the deceased's mother. Consequently, prays for an augmentation of the compensation amount originally granted by the Learned Tribunal.

8. Alternatively, Counsel for Respondent No. 3, representing the Insurance Company, asserts that the Learned Tribunal accurately assessed the deceased's salary and appropriately computed the compensation amount for the claimant. Consequently, there is no justification for intervening in the well-reasoned and precise award issued by the Learned Tribunal.

9. This Court has already rendered a detailed judgment titled as ***Sangtari Muleem* v. *KarnailSingh*, (FAONo.2538of2006D/d.07.07.2023) : Law Finder Doc Id # 2270482,** in consonance with the settled proposition of law laid down by the Apex Court in ***National Insurance Company Limited* v. *Pranay Sethi and Ors.*, 2017(4) RCR (Civil) 1009 : Law Finder**

Doc Id #918174, and ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009(3) RCR (Civil) 77 : Law Finder Doc Id #188882***, and ***Smt. Anjali and others v. Lokendra Rathod and others, 2023 (1) R.C.R. (Civil) 22 : Law Finder Doc Id # 2081014***. Therefore, in the case in hand, same parameters as laid down by the Hon'ble Apex Court are applied for the purpose of calculation of compensation. For the sake of convenience, a comparative table of the compensation as assessed and calculated by Ld. Tribunal and this Court is produced below in a tabular form:

Sr. No.	**Head**	**Compensation awarded by Ld. Tribunal**	**Compensation Awarded by High Court**
1.	Income	Rs. 9,300/-p.m.	Rs.9,300/-p.m.
2.	Future Prospects	Rs. 3,720/- (40% of the income of the deceased)	Rs. 3,720/- (40% of the income of the deceased)
3.	Deduction towards personal expenses	Rs. 6,510/- [i.e.1/2 of (Rs. 9,300/- + Rs. 3,720/-)]	Rs. 6,510/- [i.e.1/2 of (Rs. 9,300/- + Rs. 3,720/-)]
4.	Total Annual Income	Rs.78,120/- (Rs.6,510/- x12)	Rs. 78,120/-(Rs.6,510/- x12)
5.	Multiplier	18	18
6.	Loss of Dependency	Rs. 14,06,160/- (i.e. Rs.78,120/- x 18)	Rs. 14,06,160/- (i.e. Rs.78,120/- x 18)
7.	Medical expenses	Rs. 74,957/-	Rs. 74,957/-
8.	Funeral Expenses	Rs.15,000/-	Rs.25,000/-
9.	Loss of Estate	Rs. 15,000/-	Rs. 20,000/-
10.	Loss of Spousal Consortium	NIL	NIL
11.	Loss of Parental Consortium	NIL	NIL
12.	Loss of Filial Consortium to parents i.e. to mother of the deceased	NIL	Rs.44,000/-
13.	Total Compensation to be Paid	Rs. 15,11,117/-	Rs. 15,70,117/-

10. Counsel for the appellant further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 7% per annum from the date of filing of the claim petition till its realization is on the lower side and is liable to be enhanced to 9% per annum in view of the settled proposition of law established by the Apex Court and applied by this Court.

However, learned counsel appearing on behalf of respondent No.3 -Insurance Co., submits that the rate of interest should not be over the awarded amount and therefore, it should be reduced to the rate of 6% per annum.

11. I have gone through the judgments cited by counsel for the appellants (claimants) and thus, I deem it appropriate to grant the rate of interest at 7.5% per annum.

12. Thus, keeping in view the aims and objects of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants (claimants) is **Rs.15,70,117/-** along with interest at **7.5%** per annum from the date of filing of claim petition till the date of payment of compensation to the appellants (petitioners/claimants).

13. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award, would be adjusted. However, it is clarified that the amount of compensation enhanced by this Court in the present appeal shall be payable only to the sole appellant/claimant.

14. Therefore, by partly modifying the award, appeal is allowed with the terms indicated here-above.

15. Pending Miscellaneous applications, if any, also stands disposed of.

(SANJAY VASHISTH)
JUDGE

September 06, 2023
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No