



2023:DHC:8995



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 14.12.2023***+ **MAC.APP. 963/2019**

ANITA &amp; ORS.

..... Appellants

Through: Mr.Manish Maini, Adv.

versus

AMIT & ORS. (THE UNIVERSAL SOMPO GENERAL  
INSURANCE CO.)

..... Respondents

Through: Md.Mustafi, Adv. for R-3.

**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This appeal has been filed challenging the Award dated 22.05.2019 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal, North District, Rohini Court, Delhi (hereinafter referred to as the 'Tribunal') in Suit No. 604/2018, titled *Smt. Anita & Ors. v. Sh. Amit & Ors.*
2. The appellants, who were the Claimants before the learned Tribunal, had filed the above Claim Petition claiming therein that on 15.06.2018, the deceased/Mr.Mohit was riding as a pillion rider on the motorcycle bearing Registration no.DL-8SND-6576, which was being driven by his friend Mr.Manish. They were proceeding towards Mahender Garh from Narmaul side via Main Road, Village Nangal Sirohi, Haryana. At about 12:50 PM, when

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they reached the Main Road after crossing Village Nangal Sirohi, a car bearing Registration no. HR-34J-9322 came from behind and tried to overtake the motorcycle. At the same time, a truck bearing no. HR-63C-4076 (hereinafter referred to as the 'Offending Vehicle'), which was driven by the respondent no.1 herein at a very fast speed and in a rash and negligent manner, and on the wrong side of the road, came from Mahender Garh side and hit the said car and the motorcycle of the deceased with great force. Due to the accident, Mr.Vinod Kumar, the driver of the car, and Mr.Manish, both died on the spot. Mr.Mohit sustained minor injuries.

3. The learned Tribunal, based on the evidence led, has concluded that the accident in question had taken place due to the rash and negligent driving of the Offending Vehicle.
4. As far as the compensation is concerned, the learned Tribunal found that the deceased/Mr. Manish was aged 25 years at the time of the accident; he was a graduate and had done Bachelor of Technology from Maharishi Dayanand University at Rohtak. Though PW-1/Ms.Anita had stated that the deceased was imparting tuition besides supplying stationery items in Delhi and was earning around Rs.20,000/- per month, there was no other cogent evidence, except for her own deposition in this regard. The learned Tribunal, while taking the minimum wages of a graduate at the time of the accident as Rs.17,604/- per month, determined the compensation payable to the claimants, that is, the appellants herein, towards loss of dependency as

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Rs.26,61,724.80. The Tribunal further awarded non-pecuniary compensation of funeral expenses at Rs.15,000/-, loss of estate at Rs.15,000/-, and loss of love and affection at Rs.40,000/-, in favour of the Claimants/appellants.

5. The learned counsel for the appellants submits that the learned Tribunal has erred in taking the minimum wages of a graduate as income of the deceased. He submits that the deceased had completed his graduation in Bachelor of Technology from the Maharishi Dayanand University at Rohtak. He submits that, therefore, he had a bright future ahead of him, and the learned Tribunal, even in the absence of other evidence of income of the deceased, should have taken the income of the deceased at least as Rs.20,000/- per month. He places reliance on the judgment of the Bombay High Court in ***Bajaj Allianz General Ins. Co. Ltd. and Another v. Mahesh Gundappa Gouder***, 2020 SCC OnLine Bom 814.
6. Without prejudice to the above submission, he submits that even otherwise, the minimum wages of a graduate at the time of the accident was Rs.18,332/- per month and not Rs.17,604/- per month, as taken by the learned Tribunal.
7. On the other hand, the learned counsel for the respondent no.3 submits that though the deceased was a graduate having completed his Bachelor of Technology course in the year 2014, he was admittedly not working in any permanent job. It was claimed that he was imparting tuitions and was supplying stationery items, however, no evidence in this regard was led by

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the Appellants, apart from PW-1's statement. He submits that, therefore, the learned Tribunal has rightly taken the minimum wages notified for a graduate for determining the income of the deceased.

8. I have considered the submissions made by the learned counsels for the parties.
9. In the present case, as contended by the learned counsel for respondent no.3, the deceased had completed his graduation in the year 2014. He was unemployed, but it was claimed that he was imparting tuition and supplying stationery items in Delhi. However, the appellants failed to produce any supporting evidence to prove this assertion. In my view, therefore, no fault can be found with the learned Tribunal adopting the minimum wages notified for a graduate for determining the income of the deceased.
10. In ***Mahesh Gundappa Gouder*** (Supra), the Court observed that a person with diploma in engineering would undoubtedly be in a position to secure a job having a monthly salary of Rs.17,000/- per month. In the present case, however, it is admitted that in spite of passage of a long period of time, the deceased had not secured any employment. Therefore, the said judgment would be of no relevance.
11. Accordingly, I find no merit in the above challenge. The same is rejected.
12. However, at the same time, on the issue of minimum wages having been taken wrongly as Rs.17,604, the learned counsel for

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the appellants submits that the minimum wages, as notified by the Government of NCT of Delhi in its Notification no. 12(142)/02/MW/VII/201 dated 04.04.2018, for a graduate at the time of the accident was Rs.18,332/- per month. Therefore, the Impugned Award would require modification to this limited extent.

13. Accordingly, the compensation towards loss of dependency is recalculated as under:-

$$\text{Rs.18,332} \times 140/100 \times 18 \times 12 \times \frac{1}{2} = \text{Rs. 27,71,798/-}$$

14. The next challenge of the appellants is on the award of compensation towards loss of love and affection granted by the learned Tribunal at only Rs.40,000/-. The learned counsel for the appellants submits that in terms of the judgment of the Supreme Court in *National Insurance Company Limited v. Pranay Sethi and Others*, (2017) 16 SCC 680, the appellants are entitled to compensation on non-pecuniary heads as under:-

| S.No. | Particulars                    | Compensation         |
|-------|--------------------------------|----------------------|
| 1.    | Funeral expenses               | Rs.15,000/-          |
| 2.    | Loss of estate                 | Rs.15,000/-          |
| 3.    | Loss of consortium=Rs.40,000x2 | Rs.80,000/-          |
|       | <b>Total</b>                   | <b>Rs.1,10,000/-</b> |

15. I find merit in the above contention. Accordingly, the Impugned Award is modified to the above extent. The total compensation payable by the respondent no.3 to the appellants is re-determined



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as under:-

| S.No | Particulars                        | Amount          |
|------|------------------------------------|-----------------|
| 1.   | Loss of dependency                 | Rs. 27,71,798/- |
| 2.   | Funeral expenses                   | Rs.15,000/-     |
| 3.   | Loss of Estate                     | Rs.15,000/-     |
| 4.   | Loss of consortium (Rs.40,000 x 2) | Rs.80,000/-     |
|      | Total                              | Rs.28,81,798/-  |

16. The above re-determined compensation amount shall carry interest at the rate of 9% per annum from the date of filing of the Claim Petition by the appellants before the learned Tribunal, that is, 24.09.2018, till the deposit of the same by respondent no.3 with the learned Tribunal.
17. Respondent no.3 shall deposit the compensation amount/enhanced compensation amount along with interest with the learned Tribunal within a period of four weeks from today. The same shall be disbursed in favour of the claimants in accordance with the schedule of disbursement as prescribed in the Impugned Award.
18. The appeal is allowed in the above terms.
19. There shall be no order as to costs.

**NAVIN CHAWLA, J**

**DECEMBER 14, 2023**

**RN/am**

[Click here to check corrigendum, if any](#)

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