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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 15.05.2023

+ MAC.APP. 145/2018

SUMAN & ANR

..... Appellants

Through: Mr. S.N. Parashar, Adv.

versus

HASRAT ALI & ORS (NATIONAL INSURANCE CO. LTD)

..... Respondents

Through: Ms Neerja Sachdeva, Adv. for R3

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present appeal preferred by the claimants under Section 173 of the Motor Vehicles Act seeks enhancement of compensation awarded by the learned Motor Accidents Claim Tribunal. Vide the impugned award dated 16.08.2017, the learned Tribunal has on account of death of Ms Shivani, the daughter of the two appellants, awarded a sum of Rs.12,45,784/- as compensation along with interest @9% p.a to them.
2. Before dealing with the rival submissions of the parties, a brief factual matrix, as necessary for adjudication of the present appeal, may be noted.
3. At 5:00 pm on 22.03.2016, when the motorcycle bearing registration number UP 14 BV 3335 on which the deceased, Ms. Shivani was travelling as a pillion rider with one Mr. Sumit reached Jaipuria Mall, Niti Khand, Indirapuram, Ghaziabad, Uttar Pradesh, it was hit by a truck bearing registration number HR 55K 2544, being driven by respondent no. 1 in a rash and negligent manner. Due to the said accident, both persons on the motorcycle sustained grievous injuries and, consequently, Ms. Shivani

succumbed to the injuries sustained by her. As the offending truck was insured with respondent no.3, the appellants being parents of the deceased Ms. Shivani preferred a claim petition being MAC Petition No. 1914/2016.

4. On the basis of the evidence led before it, the learned Tribunal, after coming to the conclusion that the accident had taken place due to rash and negligent driving of the offending truck, granted compensation of Rs. 12,45,784/- to the appellants. For arriving at this amount, the learned Tribunal considered the minimum monthly wages of Rs. 11,154/- for a matriculate in NCT of Delhi as the income of the deceased, who was 19 years of age at the time of the accident. A sum of Rs. 10,70,784/- as compensation towards loss of dependency /contribution to the family was accordingly granted by the Tribunal by deducting 50% of the income of the deceased towards her personal expenses and thereafter applying a multiplier of 18 to the said amount. The learned Tribunal also awarded a sum of Rs. 1,75,000/- as compensation under the non-pecuniary heads and consequently a sum of Rs.12,45,784/- along with interest @9% p.a was awarded to the appellants as compensation under the following heads-

S.No.	Name of Heads	Amount
1.	Loss of dependency/ contribution to the family	Rs.10,70,784/-
2.	Loss of love and affection	Rs.1,00,000/- (Rs.50,000/- each)
3.	Loss of estate	Rs.50,000/-
4.	Funeral and transportation expenses	Rs.25,000/-
	Total	Rs.12,45,784/-

5. Being aggrieved, the appellants, who are the parents of the deceased/ Ms. Shivani, have approached this Court seeking enhancement of compensation awarded by the learned Tribunal.

6. In support of the appeal, the learned counsel for the appellant has made two submissions. He first submits that taking into account that, at the time of the accident, the deceased was less than 20 years of age, the learned Tribunal while computing compensation towards loss of dependency, ought to have applied a multiplier of 18 instead of that of 16.

7. He next submits that the learned Tribunal has also erred in failing to grant any compensation towards loss of future prospects. By placing reliance on the decision of the Apex Court in *National Insurance Co. Ltd. v Pranay Sethi (2017) 16 SCC 680*, he submits that taking into account the age of the deceased at the time of the accident, an addition of 40% was required to be made to her income for determining the loss of future prospects which the learned Tribunal had failed to grant. He therefore prays that the compensation be enhanced by applying a multiplier of 18 for quantification of the loss of dependency and an increase of 40% towards future prospects be made to the compensation awarded under the head of loss of dependency/ contribution to the family.

8. Learned counsel for the respondent is neither in a position to deny that in view of the decision in *National Insurance Co. Ltd. v Pranay Sethi (Supra)*, 40% addition was required to be made towards loss of future prospects nor in a position to deny that keeping in view that the deceased was 19 years of age, a multiplier of 18 was required to be applied for determining the loss of dependency.

9. In the light of the aforesaid, it is evident that the respondent does not

oppose either the grant of 40% addition towards additional amount towards loss of future prospects nor opposes the applicability of a multiplier of 18 for determining loss of dependency. The impugned award is therefore liable to be modified by enhancing the compensation. Taking the monthly income of the deceased as Rs. 11,154/- on which the parties are id idem, an addition of 40% is required to be made towards future prospects from which 50% needs to be deduced towards her personal expenses. Consequently, by applying a multiplier of 18, the amount payable towards loss of dependency including future prospects would stand enhanced from Rs. 10,70,784/- to Rs. 16,86,484/- (Rs 11,154/- X 140/100 X 50/100 X 12 X 18). The amount payable towards the compensation under the non-pecuniary heads will however remain unchanged.

10. For the aforesaid reasons, the appeal is accordingly allowed by directing that the compensation payable to the appellants would stand enhanced from Rs. 12,45,784/- to Rs. 18,61,484 as detailed herein below:-

S.No.	Name of Heads	Compensation awarded by the Tribunal	Compensation by this Court
1.	Loss of dependency/ contribution to the family	Rs. 10,70,784/- (Rs. 11,154/- X 12 X 16 X 50/100)	Rs. 16,86,484/- (Rs. 11,154/- X 140/100 X 50/100 X 12 X 18)
2.	Loss of love and affection	Rs. 1,00,000/- (Rs. 50,000/- each)	Rs. 1,00,000/- (Rs.50,000/- each)
3.	Loss of estate	Rs. 50,000/-	Rs. 50,000/-

4.	Funeral and transportation expenses	Rs. 25,000/-	Rs. 25,000/-
	Total	Rs.12,45,784/-	Rs. 18,61,484/-

11. The aforesaid amount will be payable to the appellants with interest @9 percent per annum, as already directed by the learned Tribunal under the impugned award.

MAY 15, 2023
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(REKHA PALLI)
JUDGE