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Date of decision:15.05.2024

VS.

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Mr. Raj Kumar Bashamboo, Advocate
for respondent No.3.

SUVIR SEHGAL J.

CM-6708-CII-2024

1. For the reasons given in the application, it is allowed.
2. Legal representatives of the deceased-appellants No.1 and 4 are permitted to be brought on the record in place of the deceased, subject to all just exceptions.
3. Amended memo of parties is taken on record.

Main Case

4. By way of present appeal filed under Section 173 of the Motor Vehicles Act, 1988, legal heirs of Narain Dass Saini, have approached this Court for enhancement of compensation awarded by the Motor



FAO-993-1993 (O & M)

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Accident Claims Tribunal (for short “the Tribunal”), Chandigarh, vide award dated 06.03.1993.

5. Facts, in brief, may be noticed.

6. On 30.09.1991, Narain Dass Saini, was returning home on a scooter and Sh. Darbara Singh was following him on his own vehicle. A maruti van driven rashly by respondent No.2 hit the scooter, Narain Dass Saini received multiple injuries and expired a few days later in PGI. His legal representatives filed claim petition before the Tribunal, which has been accepted and appellants No.1 to 4 have been awarded Rs.2,30,400/- recoverable from respondents No.1 to 3 jointly and severally alongwith interest @ 12% pa.

7. I have heard counsel for the parties and examined the available record with their able assistance.

8. On the basis of the evidence adduced before it, Tribunal came to the conclusion that the accident was a result of rash and negligent driving by respondent No.2 i.e. the driver of the maruti van, in which, due to the injuries sustained by him, Narain Dass Saini, lost his life. Claimants produced the salary certificate (Ex.P3) of the deceased to establish that he was employed as Senior Assistant in the Education Department, Punjab, was getting Rs.4,000/- per month as salary. Applying a cut of 1/3rd on his salary and awarding a multiplier of 16, the Tribunal worked out the compensation as noticed above. It has come on the record that the deceased was survived by his widow and four children, one of whom was a minor. In **Smt. Sarla Verma and others**

Versus Delhi Transport Corporation and another (2009) 6 SCC 121,
Supreme Court has held that where the number of dependents is between 4 to 6, deduction of 1/4th has to be applied. Therefore, the deduction for self dependency has to be modified. Tribunal has awarded a multiplier of 16, but it has to be reduced to 14 in view of the judgment of the Supreme Court in **National Insurance Company Limited Versus Pranay Sethi and others (2017) 16 SCC 680** as the deceased was 45 years of age. Claimants are also entitled to 30% increase in the salary for future prospects as has been held by the Supreme Court in ***Smt. Sarla Verma's case (supra)***.

9. There is nothing on the record to show that appellant No.5, who is the son of the deceased, was employed as a Clerk and was not dependent on the deceased. Finding to the contrary recorded by the Tribunal is reversed and appellant No.5 is also held to be entitled to compensation alongwith other claimants/appellants.

10. The total compensation to which the claimants/appellants are entitled is calculated as under:-

Sr. No.	Head	Compensation awarded
1.	Income	Rs.4000/-
2.	Future Prospects (30%)	Rs.1200/-
3.	Deduction towards personal expenditure (1/4 th)	Rs.1300/-
4.	Total income	Rs.3900/-
5.	Multiplier	14
6.	Loss of future prospects	Rs.6,55,200/- (Rs.3900 X 12 X 14)

7.	Loss of estate (+)	Rs.18000/-
8.	Funeral expenses (+)	Rs.18000/-
9.	Loss of Consortium (+) (Rs.44,000/- each)	Rs.2,20,000/- (44,000 X 5)
10.	Total compensation awarded	Rs.9,11,200/-
11.	Less MACT Award	Rs.2,30,400/-
12.	Enhancement	Rs.6,80,800/-

11. Tribunal had awarded an interest @ 12% per annum on the compensation amount, however, insofar as the enhanced compensation is concerned, interest @ 6% per annum is awarded from the date of this order till payment. Award of the Tribunal is modified accordingly.

12. Appeal is disposed of.

13. As the main appeal has been disposed of, pending miscellaneous application(s), if any, shall stand disposed of.

15.05.2024

(SUVIR SEHGAL)
JUDGE

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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No