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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-359-1991(O&M)
Date of Order:-08.05.2024

Smt.Sushma Parbhakar and others

...Appellants

Versus

Udham Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present :- Mr.Rahul Bansal, Advocate
for the appellants.

Mr.Rajneesh Malhotra, Advocate
for National Insurance Company – respondent No.3.

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SUVIR SEHGAL, J.(ORAL)

1. Instant appeal has been filed under the Motor Vehicles Act, 1988 by the legal heirs of Mahender Kumar Parbhakar, whereby they have sought enhancement of compensation awarded by the Motor Accident Claims Tribunal (for short – 'the Tribunal'), Bhiwani vide award dated 03.12.1990.

2. Brief facts may be noticed. On 27.07.1989, Arun Kumar Lamba, Mahender Kumar Parbhakar and Nand Kishore Sharma were triple riding a motorcycle when a truck bearing registration No.PJI-3655, which was being driven rashly by respondent No.1 hit their motorcycle and crushed them to death. FIR was lodged by an eye-witness to the ghastly occurrence. Legal representatives of all the three deceased filed separate claim petitions before the Tribunal, which have

been disposed of by a common judgment.

3. Appellants, who are heirs of Mahender Kumar Parbhakar claimed compensation and were awarded Rs.2,49,600/- against the respondents along with interest @ 12% per annum from the date of petition.

4. I have heard counsel for the appellants and examined the available record with his able assistance.

5. On the basis of evidence adduced before it, the Tribunal returned a finding that the appellants are legal representatives of the deceased and are entitled to maintain the claim petition. Under issue No.2, the Tribunal came to the conclusion that the offending vehicle was being rashly and negligently driven by respondent No.1 and he caused three deaths in the accident.

6. Compensation has been assessed by the Tribunal under issue No.3. Smt.Sushma Parbhakar – appellant No.1 deposed that her husband, who was working in a private firm, was earning Rs.1,525/- per month as salary and was also getting Rs.500/- as bonus. It has come in her evidence that the deceased left behind two minor children and his parents besides the widow, who all were dependent upon him. By applying a cut of 1/3rd for his personal expenses, the Tribunal determined the dependency of the family members at Rs.1,300/- per month. In ***Smt.Sarla Verma and others Versus Delhi Transport Corporation and another (2009) 6 SCC 121***, Supreme Court has held that where the member of dependents is between 4 to 6, deduction of 1/4th has to be applied. The monthly income of the deceased is Rs.2,025/- (i.e. Rs.1,525/- salary + Rs.500/- bonus). The Tribunal has

applied a multiplier of 16, which also deserves to be increased. It has come in the evidence of appellant No.1 that the age of deceased was between 28 to 30 years. In ***Smt.Sarla Verma's*** case (supra) Supreme Court has laid down the multiplier table. A multiplier of 17 has to be applied when the age group of the deceased is between 26 to 30 years. Claimants are also entitled to 40% increase for the future prospects as has been held by the Supreme Court in ***National Insurance Company Limited Versus Pranay Sethi and Ors.(2017) 16 SCC 680*** besides amount of Rs.44,000/- as consortium to each of the dependents and Rs.18,000/- each towards loss of estate and funeral expenses.

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

Head	Compensation awarded
(i) Income:	Rs.2,025/-
(ii) Future Prospects:	Rs.810/- (i.e. 40% of the income)
(iii)Deduction towards personal expenditure:	Rs.709/- (i.e. 1/4th of Rs.2,025 + Rs.810/-)
(iv) Total Income:	Rs.2,126/- (i.e. 3/4th of Rs.2,025 + 810)
(v) Multiplier:	17
(vi) Annual dependency:	Rs.4,33,704/- (Rs.1,890 x 12 x 17)
(vii) Funeral expenses:	Rs.18,000/-
(viii) Loss of estate:	Rs.18,000/-
(ix) Loss of Consortium:	Rs.2,20,000/- (Rs.44,000/- payable to each of five dependents)
Total compensation awarded	Rs.6,89,704/-
Less MACT Award	Rs.2,49,600/-
Enhancement	Rs.4,40,104/-

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8. The enhanced amount will earn interest @ 6% per annum from the date of this order till payment. Award of the Tribunal is modified accordingly.

9. Appeal is disposed of.

10. Since the main appeal has been decided, pending application, if any, shall stand disposed of.

(SUVIR SEHGAL)
08.05.2024 **JUDGE**
Brij
Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No