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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4283-2003(O&M)
Date of Decision: 10.12.2024

Tej Kaur and ors . . . . Appellants

Vs.

Nirmal Singh and others . . . . Respondents

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CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

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Present: Mr. Surjit Singh Swaich, Advocate
Ms. Ishani Goyal, Advocate
Ms. Navjot Kaur, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3/Insurance Company.

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SANJAY VASHISTH, J.(Oral)

1. Present Appeal has been filed by the appellants/claimants (hereinafter 'claimants') for enhancement of the amount of compensation by modifying the award dated 21.02.2003, passed by learned Motor Accident Claims Tribunal, Fatehgarh Sahib, (for short, 'learned Tribunal'), whereby in claim petition bearing MACT No.64/16.10.99, compensation amount to the tune of Rs.2,30,000/- was ordered to be paid to the claimants, on account of death of 'Gulzar Singh'. Claimants, who filed claim petition u/s 166 of the Motor Vehicle Act, 1988 (in short, 'MV Act') are widow and four children of the deceased.

2. The factual aspect explained in the claim petition is that on 07.09.99, when deceased Gulzar Singh was going from Amloh towards Mandi Gobindgarh on his scooter, a mini Bus bearing registration no. PB-23/1278,

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driven by Nirmal Singh (respondent no.1) in a rash and negligent manner, hit scooter of deceased, due to which he fell down and sustained grievous injuries which resulted into his death. As a consequence of which, FIR was also registered (Exh.P3).

3. After going through the record, appreciating the evidence, examining the witnesses and hearing arguments of both the sides, and there being no documentary evidence regarding monthly income of deceased, Ld. Tribunal assumed the deceased as an unskilled labourer and assessed his income as Rs.2,200/- per month and the dependency of the claimants upon the deceased as Rs. 1,500/- per month, which in other words would mean Rs.1,800/- per month on account of loss of dependency. It applied the multiplier of '12' and granted Rs.4,000/- towards Funeral Expenses etc, and awarded Rs.10,000/- to widow on account of loss of Consortium. Accordingly, the claimants were awarded total compensation of Rs.2,30,000/- in proportion as mentioned herein below :

(i)Tej Kaur (widow)	Rs.1,30,000/-
(ii)Surjit Singh (Son)	Rs. 25,000/-
(iii)Pargat Singh (Son)	Rs. 25,000/-
(iv)Sarabjit Kaur (daughter)	Rs. 25,000/-
(v)Lakhbir Kaur(daughter)	Rs. 25,000/-

Compensation amount was ordered to be paid to the claimants by respondents jointly and severally with interest @ 9% per annum, from the date of filing of the petition till its realization.

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4. This Court is of the view that in absence of any evidence, Ld. Tribunal has correctly assessed the monthly income of the deceased as an unskilled Labourer as Rs.2,200/-. Thus monthly income of the deceased is taken as Rs. 2,200/-. Further, from the evidence on record, it stands established that the deceased was aged about 45 years and as per **National Insurance Company Limited v. Pranay Sethi and Others 2017 (4) RCR (Civil) 1009:Law finder Doc ID #918174,** addition of 25%, on the count of 'future prospects' has to be made and total amount of earnings thus comes out to be Rs.2,200/- +Rs.550(25% of Rs.2,200/-)=Rs.2,750/- per month. Out of the same, keeping in view the number of dependents i.e. widow and four children, 1/4th is to be deducted on account of 'personal expenses', which is to the extent of Rs.687.5/- and the residue amount works out to be Rs.2,062.5/- per month and annually which comes out to be Rs.24,750 /-.Considering the age of the deceased as 45 years, as per **Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121,** the multiplier of '14' is applied and after, so applying this multiplier, the loss of dependency comes to be Rs.24,750x14=Rs. 3,46,500/-.

5. Rest of the parameters are assessed and calculated in accordance with the judgment of this Court titled as **Sangtari Muleem v.Karnail Singh, 2023 (4) RCR (CIVIL) 5: Law Finder Doc Id # 2270482,** which is in consonance with the settled proposition of law laid down by the Apex Court in **Pranay Sethi's case (supra)**, and Smt. **Sarla Verma's case (supra)** and **Smt. Anjali and others v. Lokendra Rathod and Others, 2023 (1) R.C.R. (Civil) 229 : Law Finder Doc Id #2081014.**

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6. Claimants are entitled for Rs.25,000/- as compensation under the head of funeral expenses and Rs.20,000/- towards loss of estate. Loss of consortium is to be awarded to the tune of Rs.48,400/- each, to the all the claimants in the instant appeal.

7. For the sake of convenience, amount of compensation assessed and calculated by this Court is produced below in a tabular form:-

SR.NO.	**HEADS**	**COMPENSATION AWARDED BY HIGH COURT**
1.	Income	Rs.2,200/- per month
2.	Future Prospects	25%
3.	Deduction towards personal expenses	1/4
4.	Total Annual Income	Rs.24,750 /-
5.	Multiplier	14
6.	Loss of Dependency	Rs.3,46,500/-
7.	Funeral Expenses	Rs.25,000/-
8.	Loss of Estate	Rs.20,000/-
9.	Loss of Spousal Consortium	Rs.48,400/-
10.	Loss of Parental Consortium	Rs.1,93,600(48,400x4)
11.	Loss of Filial Consortium	NIL
12.	Total Compensation to be paid	**Rs.6,33,500/-**

Thus, keeping in view the aims and objects of the beneficial legislation of providing relief to the victims or their families, the total compensation payable to the claimants is enhanced to **Rs.6,33,500 /- (Rupees Six Lacs Thirty Three thousands and Five Hundred).**

Distribution of Awarded Compensation: Single mother/widow of the deceased bears the most profound emotional and economic burden after losing a loved one. After losing the company of partner in life, widow (appellant no.1) might have struggled alone very hard for upbringing their

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children. Therefore, acknowledging her significant role and impact of loss, major part of the compensation i.e 50% would be paid to her and remaining 50% of the compensation shall be shared by all the four children in equal share.

The awarded compensation shall be paid to the claimants within a period of three months from the date of this order, along with interest @ 7.5% per annum from the date of filing of claim petition till the date of payment of compensation to the claimants, with the same terms, which have been mentioned by Ld. Tribunal.

8. It is further clarified that in case compensation amount is not paid within above mentioned stipulated period, rate of interest would be 9% per annum from the date of filing of claim petition till its actual realization.

And, in case any further delay is caused beyond six months from today, compensation amount payable as on date would be paid to the claimants along with applicable rate of interest @12%p.a from the date of filing claim application till its realization.

9. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to impugned award would be adjusted.

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

(SANJAY VASHISTH)
JUDGE

December 10, 2024
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1. Whether speaking/reasoned? ***Yes/No***
2. Whether reportable? ***Yes/No***

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