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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**IOIN-FAO-4637-2005 in/and
FAO-4637-2005 (O&M)
DECIDED ON: 29.10.2024**

PREM SINGH AND ANOTHER .....APPELLANTS

VERSUS

LOKESH SHARMA AND OTHERS .....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Munish Jolly, Advocate,
for the appellants.

Ms. Simran, Advocate, for
Mr. Pardeep Goyal, Advocate,
for respondent No.3.

<u>SANJAY VASHISTH, J (ORAL)</u>

1. Present appeal has been filed by the appellants/claimants (hereinafter referred as 'claimants') for modification of award dated 27-07-2005, passed by Ld. Motor Accidents Claims Tribunal, Sonepat (hereinafter referred to as 'Ld. Tribunal') in MACT case No.98 of 2004, by seeking enhancement of amount of compensation, on account of death of deceased –Jaibir.

2. Briefly stated facts of the case are that Jaibir (deceased) was a helper/Asst. Conductor in bus No.DL-1PA-5547. On 30.08.2004, at about 11:45 A.M, while on duty and with the bus en route from Najafgarh to Narela, Jaibir boarded the bus after taking the passengers on board and was standing on its footrest. Respondent No.1/driver started the bus at very high speed without waiting for any signal or whistle. As a result,

Jaibir fell from the front footrest of the bus and was crushed under the rear wheels and died on spot. Resultantly, FIR No.211 of 2004 was registered at P.S. Kanjhawla (North West, Delhi) under Sections 279/304-A, IPC.

3. Appellants-Prem Singh(father) and Raj Bala (mother) of the deceased namely Jaibir, filed a claim petition under Section 166 of the motor vehicle Act, 1988 for seeking compensation on account of death of their beloved son 'Jaibir' in the motor vehicular accident.

After going through the record and appreciating the evidence, learned Tribunal awarded the compensation amount of Rs.2,20,000/- to the claimants alongwith interest @ 6 % per annum from the date of filing of the claim petition till its actual realization of the amount.

Ld. Tribunal assessed the monthly income of deceased as Rs.2,700/- and therefore, Rs.32,400/- per annum. Since the deceased was unmarried and aged 20 years at the time of death, learned Tribunal assumed that he would have remained unmarried for period of about five years more and thus, would have contributed 2/3rd of his total income towards his parents i.e. a sum of Rs.21,600 per annum/-. Therefore, learned Tribunal found that for this period, out of total multiplier of 15, claimants shall be entitled to compensation on account of Loss of dependency of Rs. 1,08,000/-(Rs.21,600/- x 5).For remaining 10 years, tribunal assumed that being married that time, deceased would have contributed towards claimants maximum 1/3rd of his earnings i.e. Rs.1,08,000/- (Rs.10,800 x 10). Thus, the total compensation worked out by Tribunal was held as (Rs.21,600 x 5) + (Rs.10,800 x 10)=

Rs.2,16,000/-. Apart this the amount of Rs.4,000/- was awarded towards funeral expenses ,making it total amount of compensation as Rs.2,20,000/-.

Appellants/ Claimants have filed the present appeal, seeking enhancement of the compensation as awarded by the Ld. Tribunal.

4. While addressing arguments, Counsel for the appellants submits that the Ld. Tribunal has erred in determining the monthly salary of the deceased –Jaibir, as he was earning Rs.5,000/- per month. The Tribunal failed to enhance the income on account of future prospects, erred in applying multiplier; deducted personal expenses on the higher side and granted only Rs.4,000/- on account of funeral expenses. Furthermore, no compensation has been awarded towards loss of consortium, loss of estate etc.

5. On the other hand, Ld. Counsel for Respondent No.3 – Insurance Company, submits that the Ld. Tribunal has rightly determined the monthly salary of the deceased and there is no need to interfere in the amount of compensation awarded by the Ld. Tribunal. Thus, the present appeal is liable to be dismissed.

6. While considering the issue of enhancement of the compensation, this Court has no hesitation to hold that once Tribunal found that the deceased was working as helper in the Bus, his monthly income cannot be assessed less than the minimum wages at relevant time i.e. 30.08.2004 which was Rs.3,510/-.

Accordingly, by taking into consideration the minimum wages at the time of accident in question as Rs.3,510/-, the enhancement in question would be considered by this Court by following the proposition of law laid down by the Apex Court in various judgements :

(i) National Insurance Company Limited v. Pranay Sethi and Others 2017 (4) RCR (Civil) 1009: Law finder ID #918174

(ii) Smt. Sarla Verma & Ors. Vs Delhi Transport Corporation & Anr., (2009) 6 SCC 121and

(iii) Smt. Anjali and others v. Lokendra Rathod and others, 2023 (1) R.C.R. (Civil) 229 : Law Finder Doc Id #2081014.

8. From the evidence on record, it stands established that the deceased aged 20 years, at the time of accident and as per **Pranay Sethi's case (supra)**, addition of 40%, on the count of 'future prospects' has to be made and total amount of earnings comes out to be Rs.3,510+ 1,404(40%)=Rs.4,914/- per month.

Out of the same, keeping in view the number of dependents i.e, parents of the deceased, 1/3rd is to be deducted on account of 'personal expenses', which is to the extent of Rs.1,638/- and the residue amount works out to be Rs.3,276/- per month and annual comes to be Rs.39,312/-. Considering the age of the deceased as per **Smt. Sarla Verma's case (supra)**, the appropriate multiplier of '18' is to be applied and after, so applying this multiplier, the loss of dependency comes to be Rs.39,312 x 18=Rs.7,07,616 /-.

Rest of the parameters are assessed and calculated in accordance with the judgment of this Court titled as **Sangtari Muleem v. Karnail Singh, (FAO No. 2538 of 2006, D/d. 07.07.2023): 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's case (supra).**

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 of the claimants in the instant appeal.

9. For the sake of convenience, a comparative table of the compensation as assessed and calculated by this Court is produced below in a tabular form:

Sr. No.	HEADS	Compensation awarded by the High Court
1.	Income	Rs.3,510/-p.m.
2.	Future Prospects (Age-20)	Rs.1,404 (40% of Rs.3,510)
3.	Deduction towards personal expenses	Rs.1,638/- (1/3rd of Rs.3,510+ Rs.1,404)
4.	Total Annual Income	Rs.39,312/-(Rs.3,276 X 12)
5.	Multiplier	18
6.	Loss of Dependency	Rs. 7,07,616 /-.
7.	Funeral Expenses	Rs.25,000/-
8.	Loss of Estate	Rs.20,000/-
9.	Loss of Spousal Consortium	nil
10.	Loss of Parental Consortium	nil
11.	Loss of filial Consortium	Rs.96,800/-(Rs.48,400 X 2)
12.	Total Compensation to be Paid	**Rs.8,49,416/-**

Thus, the claimants are entitled for a total compensation amount of **Rs.8,49,000/- (rounded-off) as against Rs.2,20,000 /-.**

10. Counsel for the appellants further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 6% per annum is to be enhanced @9% p.a. on the awarded amount from the date of filing of the claim petition till its realization. However, learned counsel appearing on behalf of respondent No.3 - Insurance Co., submits that the rate of interest

should not be over the awarded amount and therefore, it should not be more than 6% per annum.

11. Thus, keeping in view the aim of this beneficial legislation of providing relief to the victims or their families, the total compensation payable to the appellants /claimants is enhanced to Rs. **Rs.8,49,000/-(Rupees Eight Lacs forty nine thousand only),** along with interest at 7.5% per annum, in the same terms, from the date of filing of claim petition till the date of payment of compensation to the appellant.

12. The awarded amount shall be paid to the claimant within a period of 3 months from the date of this order. In case, the awarded amount is not paid within a stipulated period of 3 months, an interest rate of 9% per annum would apply from the date of filing of claim application till its realization.

If any further delay occurs beyond six months from today, and the compensation amount is still unpaid within the aforementioned stipulated period, an interest rate of 12% per annum will apply from the date of filing of claim application till its realization.

It is further clarified that, in case the compensation amount is not paid within the aforementioned period, an interest rate of 9% per annum would apply from the date of filing of claim application till its realization.

If any further delay occurs beyond six months from today, and the compensation amount is still unpaid within the aforementioned stipulated period, an interest rate of 12% per annum will apply from the date of filing of claim application till its realization.

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

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

(SANJAY VASHISTH)
JUDGE

29.10.2024
Lavisha/rashmi

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*