IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(274)

FAO-748-2022 (O&M)
Date of decision:- 25.03.2025

The Oriental Insurance Company Limited ... Appellant

Versus

Dayarani Devi and others ... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Satpal Dhamija, Advocate
for the appellant-insurance company.

Dr. Sumati Jund, Advocate
for respondents No.1 to 5.

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SUVIR SEHGAL, J. (*ORAL*)

1. This appeal has been filed by the appellant/insurance company assailing award dated 24.11.2021 passed by the Motor Accident Claims Tribunal (for short "the Tribunal"), Rupnagar, whereby a petition filed by claimants/respondents No. 1 to 5 under the Motor Vehicles Act, 1988 (for brevity "the M.V. Act"), has been partly accepted.

2. Facts leading to the filing of the appeal are that on 22.10.2020, Tuno Mahato @ Tuna Mahato, along with his brother Hari Mohan Mahato and other labourers, was travelling on foot. An i20 car bearing registration No. PB-71-A-4607, rashly driven by respondent No.6 and hit Tuno Mahato, who sustained multiple injuries. He succumbed to his injuries on the way to the hospital. A postmortem examination, Ex.P8, was conducted at Civil Hospital, Ropar. An

FIR, Ex.P9, bearing No.110 dated 22.10.2020, was lodged under Sections 279 and 304-A, IPC at Police Station - Singh Bhagwantpura, on the statement of Hari Mohan Mahato. Claimants filed a petition, which has been partly accepted vide impugned award and they have been granted compensation of Rs.20,44,400/-. Appellant have been held liable to pay the amount, along with interest @ 7% per annum, from the date of filing of the claim petition.

3. I have heard counsel for the parties and examined the available record with their able assistance. Appellant has disputed the computation of compensation.

4. On the basis of the evidence adduced, Tribunal has come to the conclusion that the accident took place on account of rash and negligent driving by respondent No.6 and Tuna Mahato died in the vehicular accident. Tribunal found that respondent No.6 had a valid driver's license, Ex.R2, and offending vehicle was fully insured under insurance policy, Ex.R3.

5. Compensation was assessed by assuming the income of the deceased, who was working as an agriculture labourer, as Rs.10,800/- per month, taking into account the minimum rates of wages notified by order No. ST/9408 dated 01.03.2020 by the Labour Commissioner, Punjab. However, as per the minimum wage notification by Government of Punjab dated 30.11.2021, the minimum wage for unskilled labourer was Rs.9,192.75/- per month w.e.f. 01.09.2020. Since the accident has occurred on 22.10.2020, the average monthly income is to be considered as Rs.9,200/- (rounded off). Tribunal had applied a deduction of 1/3rd towards personal expenses and expenditure from the monthly income, but considering that the deceased had five dependents, the

deduction has to be reduced to $1/4^{th}$ in view of the settled legal position. The Tribunal correctly applied a multiplier of 15 and awarded future prospects at the rate of 40% taking into account the age of the deceased, which was 38 years at the time of accident.

6. In the light of the principles laid down by the Supreme Court in ***Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, (2009)*** ***6 SCC 121***, ***National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680*** and ***Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130,*** this Court is of the view that head-wise various computation of compensation deserves to be modified as below:-

Sr. No.	**Heads**	**Compensation Awards**
1	Monthly Income	Rs.9,200/-
2	Deduction towards personal expenditure $1/4^{th}$	Rs.2,300/- (Rs.9,200/- x 1/4)
3	Future prospects	Rs.2,760/- (40% of Rs.6,900/-)
4	Total Monthly Income	Rs.9,660/- (Rs.6,900/- + Rs.2,760/-)
5	Multiplier	15
6	Annual dependency	Rs.17,38,800/- (Rs.9,660/- x 12 x 15)
7	Loss of Estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of consortium	Rs.2,40,000/- (Rs.48,000/- payable to each of five dependents)
10	Total compensation	Rs.20,14,800/-

7. Tribunal has awarded Rs.20,44,400/-, which, as calculated above, is reduced to Rs.20,14,800/-. Interest of 7% per annum awarded by the Tribunal shall remain unaltered.

8. Appeal is disposed off.

9. As the main appeal has been decided, pending application(s), if any, is/are disposed off.

(SUVIR SEHGAL)
JUDGE

25.03.2025
Kamal

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