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

**210** **FAO-3235-2009 (O&M)**
**Date of decision: 22.01.2025**

**Indu Mati and others**

**...Appellant(s)**

**Vs.**

**Mukesh and others**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Abhisar Chaudhary and
Ms. Geetanjali Bhatia, Advocates for
Mr. Kulvir Narwal, Advocate for the appellant.

Mr. R.C.Kapoor, Advocate for respondent No.3-Insurance Co.

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**NIDHI GUPTA, J.**

The claimants are in appeal before this Court seeking enhancement of the compensation of Rs.7,20,000/- awarded by the Motor Accident Claims Tribunal, Rohtak vide Award dated 13.01.2009 passed in MACT Case No. 289 of 09.09.2006, filed by them under Section 166 of the Motor Vehicle Act, 1988. The 5 claimants/appellants are the Widow, 2 minor children and parents of the deceased Ranbir Singh, who was about 39 years old at the time of accident.

Brief facts of the case are that the learned Tribunal on the basis of the pleadings and evidence adduced before it, concluded that the deceased Ranbir Singh had died due to injuries suffered by him in a motor vehicular accident that took place on 15.10.2005 due to the rash and negligent driving of Tata Indica Car bearing Registration No. HR-12G/2515

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(hereinafter referred to as the "offending vehicle") being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. Ld. Tribunal granted the above compensation alongwith interest @ 7.5% per annum from the date of institution of the claim petition till actual realization. The respondents were held jointly and severally responsible to pay the compensation.

Learned counsel for the appellants submits that the compensation paid to the appellant is liable to be enhanced as the learned Tribunal has taken the income of the deceased on the lower side as only Rs.6,000/- p.m. It is submitted that in this regard, the learned Tribunal has ignored the cogent evidence led by the claimants which proved that the deceased was earning more than Rs.35,000/- p.m. The appellants had also shown that the deceased had ownership of 8 acres of agricultural land. Moreover, nothing has been granted by way of future prospects; and even nothing has been granted under the conventional heads.

Per contra, ld. counsel for the respondent-Insurance Company submits that the income of the deceased has been correctly assessed by the ld. Tribunal; however very fairly admits that nothing has been granted to the appellants under the conventional heads or by way of future prospects.

No other argument is raised on behalf of the parties.

I have heard learned counsel for the parties and perused the case file in great detail.

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Perusal of the record of the case shows that it was a pleaded case of the appellants before the learned Tribunal that the deceased was doing the business of shuttering under the name and style of Amit Co-operative Labour Construction Society Limited. It had been averred that the deceased was also an agriculturist; and thus, the monthly income of the deceased from both the avocations was Rs.35,000/-p.m. approximately. Learned Tribunal upon appraisal of pleadings and oral and documentary evidence produced before it, concluded that the appellants had failed to produce any cogent proof of the income of the deceased. It has been categorically held by learned Tribunal that no Income Tax Return of the deceased was produced by the appellants. In fact, the appellants had failed to prove that the deceased was even an income tax assessee. The appellants had even failed to prove as to what was the profit/net income of the deceased from his contractorship and agriculture. The appellants had failed to examine any person to whom the deceased used to sell his agricultural produce. Thus, except the bald assertion of the appellants, there was not a smidgen of evidence produced on record by the claimants to prove the income of the deceased as alleged. Accordingly, the learned Tribunal had taken the income of the deceased as Rs. 6,000/-p.m. on the basis of the relevant Minimum wage.

I find no error in the assessment of notional income as made by the learned Tribunal. Even before this Court, the appellants have failed to show anything to discount the findings of the learned Tribunal.

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The learned Tribunal had further made a deduction of 1/3rd towards personal expenses of the deceased. However, keeping in mind the fact that there are total 5 claimants, deduction of 1/4th ought to have been made. Further, it was proven on record that the age of the deceased at the time of accident was 39 years. As such, future prospects @ 40% are to be added; and multiplier of 15 is to be applied.

As regards, the conventional heads, as per recent judgments of the Hon'ble Supreme Court in "**Shri Ram General Insurance Co. Ltd. Vs. Bhagat Singh Rawat & Others" Civil Appeal Nos.2410-2412/2023** and "**Mehmooda Bee & Others Vs. National Insurance Co. Ltd." (@ SLP (C) No.16767 of 2022)** and "**Bebi Giri Vs. National Insurance Co. Ltd." Civil Appeal No.6551 of 2022,** it has been held that total sum of Rs.77,000/- only can be granted under the conventional heads. No case law to the contrary has been cited by learned counsel for the appellants.

Thus, keeping in view the facts as noted above, the present appeal is **allowed**. The re-worked compensation is as follows: -

| Details | Before the Tribunal | Revised Compensation |
|---|---|---|
| Income | Monthly: Rs.6,000/-<br>Annual: Rs.72,000/- | Monthly: Rs.6,000/-<br>Annual: Rs.72,000/- |
| Deduction | 1/3 | 1/4 |
| Future prospects | Nil | 40% |
| Annual income | 99,180/- | 99,180/- |
| Multiplier | 15 | 15 |
| Conventional heads | Nil | 70,000/- |
| Total compensation | Rs.7,20,000/- | Rs.12,04,000/- |
| Interest | 7.5% p.a. | 6% p.a. |
| Total increase | | Rs.4,84,000/- |

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Pending application(s) if any also stand(s) disposed of.

**22.01.2025** **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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

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