(2024) 05 SHI CK 0006

In the High Court Of Himachal Pradesh

Case No : First Appeal Order No. 105 Of 2016

Pushpa Devi — APPELLANT

Vs

Soniya Gope Narayani & Ors — RESPONDENT

Date of Decision : 01-05-2024

Acts Referred:
Motor Vehicles Act, 1988 — Section 140, 166, 173

Citation : (2024) 05 SHI CK 0006

Hon'ble Judges : Virender Singh, J

Bench : Single Bench

Advocate : Jai Ram Poswal, B.M. Chauhan, Kamakshi Trilokta

Final Decision : Allowed

Judgement

Virender Singh, J

1. The present appeal has been preferred, by the appellant, under Section 173 of the Motor Vehicles Act, 1988, (hereinafter referred to as 'the M.V. Act'), against the award dated 01.06.2015, passed by the learned Motor Accident Claims Tribunal, Bilaspur, H.P. (hereinafter referred to as 'the Tribunal'), in MAC Petition No.22/2 of 2013, titled as, 'Pushpa Devi Versus Soniya Gope Narayani & Ors.'.

2. Parties to the lis, hereinafter, are, referred to, in the same manner, in which, they were referred to, by the learned Tribunal.

3. Vide award dated 01.06.2015, the learned Tribunal has allowed the petition, filed, under Sectio 166 of the MV Act, by the petitioner, who is the mother of Sh. Sunny Bajaj, who, as per case of the petitioner, died, in a road-side accident, on 06.05.2013, involving vehicle No.GJ12-AT-9594 (hereinafter referred to as the 'offending vehicle'), owned by respondent No.1, driven by respondent No.2 and insured with respondent No.3.

4. Vide award, impugned herein, the learned Tribunal has awarded the compensation to the tune of Rs.27,56,600/-, to the petitioner, along with interest

@9% per annum, from the date of filing of the petition, till deposit of the amount.

5. The award has only been assailed by the petitioner, as, no appeal has been preferred by the owner, driver or the insurer of the offending vehicle.

6. It is not disputed, in this case, that the age of the deceased was about 24 years, at the time of his death, in the accident in question and his income of Rs.19,100/- has also not been disputed.

7. Learned counsel, appearing for the Insurance Company, has contended that the learned Tribunal has wrongly added 50% in the income of the deceased, on account of his future aspects, as, admittedly, he was not working in the Government sector.

7.1 Keeping in view the fact that the deceased was working in the unorganized sector, only 40% amount is liable to be added, in his income, on account of his future prospects.

7.2 While holding so, the view of this Court is being guided, by the decision of the Hon'ble Supreme Court, in case titled as 'National Insurance Company Limited vs. Pranay Sethi and others', reported as (2017) 16 SCC 680.

7.3 In view of the aforesaid judgment, adding 40% in the income of the deceased, his income comes to Rs.19,100/- + 40% of his income = Rs.26,740/-.

8. Since, Sh. Sunny Bajaj (deceased) was bachelor and the petitioner is the mother of the deceased, as such, 50% of the amount is liable to be deducted, out of the income of the deceased, towards his personal expenses, had he been alive. Thus, his monthly contribution, to the family, comes to Rs.13,370/- per month.

9. The learned Tribunal has wrongly applied the multiplier of '14', in this case, as, admittedly, his age was 24 years, at the time of his death.

9.1 In view of the law laid down by the Hon'ble Supreme Court in case, titled as 'Sarla Verma and others vs. Delhi Transport Corporation and others', reported as 2009 (6) SCC 122, multiplier of '18' is to be applied, in this case.

9.2 Thus, after applying multiplier of '18', in this case, his contribution, towards his family, comes to Rs.13,370/- x 12 x 18 = Rs.28,87,920/-.

10. In addition to this, the petitioner is held entitled for a sum of Rs.40,000/-, under the head 'loss of consortium'. This amount has been given to the petitioner, in view of the decision of the Hon'ble Supreme Court, in case titled as 'Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others', reported as (2018) 18 SCC 130 .

11. Further, the petitioner is also held entitled to compensation, under the following heads:-

i. Loss of estate = Rs.15,000/-

ii. Funeral expenses = Rs.15,000/-

12. In view of the discussion made, hereinabove, the award passed by the learned Tribunal is liable to be modified, in order to achieve the goal of 'just compensation'. The petitioner is entitled to compensation, which is assessed, as under:-

1. Loss of contribution = Rs.13,370/- x 12 x 18

= Rs.28,87,920/-

2. Loss of estate = Rs.15,000/-

3. Funeral expenses = Rs.15,000/-

4. Loss of consortium = Rs.40,000/-

Total = Rs.28,87,920/- + Rs.15,000 +

Rs.15,000/- + Rs.40,000/-

= Rs.29,57,920/-

13. No other point has been urged or argued before this Court.

14. In view of the above, the compensation is enhanced and the petitioner is held entitled for an amount of Rs.29,57,920/-, along with interest, as awarded by the learned Tribunal i.e. @9% per annum, from the date of filing of petition, till the realization of the whole amount. Any amount received, under Section 140 of the M.V. Act, shall be liable to be deducted.

15. However, ultimate liability to pay the amount of compensation, along with up-to-date interest, is on the Insurance Company (respondent No.3), with whom, the offending vehicle was, admittedly, insured, at the time of accident.

16. Consequently, the present appeal is allowed, in the aforesaid terms.

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

18. Record be sent down.

