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SHIV KUMAR & ORS.

v.

GAINDA LAL & ORS.

(Civil Appeal No. 7629 of 2022)

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OCTOBER 21, 2022

[M. R. SHAH AND M. M. SUNDRESH, JJ.]

Motor Vehicles Act, 1988: Fatal accident – Compensation – Enhancement of – Death of housewife aged 25 years in a vehicular accident – Award of compensation of Rs. 19,12,200/- with interest under different heads by the tribunal, enhanced to Rs.29,34,000/- with interest at the rate of 7.5 per cent by the High Court – On appeal, held: Deceased was a housewife aged 25 years and was taking tuition, the High Court ought to have considered her income at least Rs 7,500/- – High Court did not consider the future aspect and while considering the loss of dependency 40% of the income is to be added towards future prospects – Thus, claimants entitled to Rs 1 lakh instead of Rs. 50,000 for loss of foetus, Rs.40,000/- each towards loss of consortium or loss of love and affection – Claimant entitled to compensation at Rs.32,82,000/- with interest at the rate of 7.5 % per annum – Order passed by the High Court modified.

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 7629 of 2022.

From the Judgment and Orders dated 07.03.2019 of the High Court of Punjab and Haryana at Chandigarh in FAO No. 854 of 2014.

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Vikas Kumar, Manish Paliwal, Ms. Megha Yadav, Ms. Himanshi Kaushik, M/s Corporate Legal Partners, Advs. for the Appellants.

Vishnu Mehra, Ms. Sakshi Mittal, Advs. for the Respondents.

The Judgment of the Court was delivered by

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M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 07.03.2019 passed by the High Court of Punjab and Haryana at Chandigarh in First Appeal No.854 of 2014, the original claimants have preferred the present appeal to enhance the amount of compensation.

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2. That the wife of the appellant no.1 died in a vehicular accident. At the relevant time, the deceased was aged 25 years and was a housewife. The Motor Accident Claim Tribunal awarded Rs.19,12,200/- with the interest at the rate of 7.5% towards the compensation under different heads. The Learned Tribunal awarded the loss of dependency at Rs.3,24,000/- considering the income of the deceased at Rs.1,500/- per month. As at the relevant time the deceased was pregnant, the learned Tribunal also awarded Rs.50,000/- for foetus. Learned Tribunal awarded Rs.19,12,200/- under different heads:

Head of Claim	MACT
Income	1500/-pm
Future Prospect	-
Loss of Dependency (Annual Income after adjusting deductions and future prospects *Multiplier)	Rs.3,24,000/-
Medical expenses	Rs.15,18,000/-
For Fetus	Rs.50,000
Loss of Consortium Or Loss of Love and affection	10,000 + 10,000
Conventional Head (Funeral Expense and Loss of Estate)	20,000
Award	19,12,200 @ 7.5%

2.1 In an appeal at the instance of the original claimants, by the impugned judgment and order the High Court has enhanced the amount of compensation at Rs.29,34,000/- under different heads:

Head of Claim	MACT	High Court
Income	1500/-pm	6000/-pm notional
Future Prospect	-	-
Loss of Dependency (Annual Income after adjusting deductions and future prospects *Multiplier)	Rs.3,24,000/-	Rs.12,96,000/-

A	Medical expenses	Rs.15,18,000/-	Rs.15,18,000/-
	For Fetus	Rs.50,000	Rs.50,000/-
B	Loss of Consortium Or Loss of Love and affection	10,000 + 10,000	-
	Conventional Head (Funeral Expense and Loss of Estate)	20,000	70,000
C	Award	19,12,200 @ 7.5%	29,34,000 @ 7.5%

2.2 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court, the original claimants have preferred the present appeal.

D 3. Learned counsel appearing on behalf of the appellants-original claimants has vehemently submitted that the High Court has committed a serious error in awarding the loss of dependency considering the income of the deceased at Rs.6,000/- per month only. It is submitted that even the minimum wages payable to the skilled worker was much more than Rs.6,000/- per month. It is submitted that even otherwise while awarding the loss of dependency, future prospect has not been taken into consideration at all.

F 3.1 It is submitted that the High Court has also erred in awarding Rs.50,000/- towards foetus. It is submitted that the claimants shall be entitled to a sum of Rs.40,000/- each towards loss of consortium or loss of love and affection. Therefore, it is prayed to allow the present appeal.

G 4. Shri Vishnu Mehra, learned counsel appearing on behalf of the contesting respondents – Insurance Company has submitted that in the facts and circumstances of the case and more particularly when the deceased was only a housewife, it cannot be said that the High Court has committed any error in awarding the loss of dependency considering the income of the deceased at the rate of Rs.6,000/- per month. However, has fairly conceded that the High Court ought to have awarded the loss of dependency considering future prospects.

H 5. Having heard learned counsel appearing on behalf of the respective parties and considering the fact that at the relevant time the

deceased was a housewife aged 25 years only and there was contribution of the wife in the family and there is evidence that she was also doing the tuition work, we are of the opinion that the High Court ought to have considered the income of the deceased at least Rs.7,500/- per month. The High Court has also not considered the future prospects. As per the settled position of law while considering the loss of dependency 40% of the income is required to be added towards future prospects.

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5.1 We are of the opinion that the claimants shall be entitled to a sum of Rs.1 lakh each instead of Rs.50,000/- as awarded by the High Court for loss of foetus.

5.2 The claimants – husband and the minor son shall also be entitled to Rs.40,000/- each towards loss of consortium or loss of love and affection.

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5.3 To the aforesaid extent the impugned judgment and order passed by the High Court is required to be modified.

6. In view of the above and for the reason stated above, present appeal is allowed. The impugned judgment and order passed by the High Court is hereby modified and it is directed that the appellants - original claimants shall be entitled to a total sum of Rs.32,82,000/- with interest at the rate of 7.5% per annum.

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Present appeal is accordingly allowed to the aforesaid extent. However, in the facts and circumstances of the case there shall be no order as to costs.

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