

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

FAO No.5792 of 2002 (O&M)

Date of Decision :13.02.2019

Jagtar Singh & others.

....Appellants

versus

Managing Director, PRTC, Patiala & ors.

...Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: None for the appellants.

Mr. Aman Sharma, Advocate
for the respondent-PRTC.

B.S. Walia, Judge (Oral).

1. None is present on behalf of the appellants. Even on the previous dates, none was present on behalf of the appellants.

2. Since the accident is of 25.10.1999 while the appeal is of the year 2002, I am not inclined to adjourn the case any further. Therefore, with the able assistance of learned counsel for respondent-PRTC, I have gone over the record and considered the claim for enhancement.

3. Appeal has been filed by the husband and two minor children of Bhillo, who died in a motor vehicular accident on 25.10.1999. Prayer is for enhancement of compensation of ₹88,000 awarded by the learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal).

4. The Tribunal took into account that the deceased was a housewife, assessed services rendered by deceased in monetary terms at ₹1,000/- per month and by imposing deduction of 50% towards personal expenses of the deceased and by taking into account the age of the deceased as 30 years in view of the postmortem report and by applying multiplier

5. I have perused the paper book and have gone through the record.

6. Admittedly, the deceased was a housewife. Although the date of accident is 25.10.1999 and there is no evidence on record with regard to the earning of the deceased, yet it would not be inappropriate to take into account the minimum wages fixed for an unskilled labourer for the relevant period under the Minimum Wages Act, i.e. ₹1749/- rounded off to ₹1750/- as the monthly contribution of the deceased housewife to her family. Photocopy of the notification under the Minimum Wages Act for the relevant period issued by the State of Punjab is taken on record as Mark-A. Copy of the same handed over to learned counsel for the respondents who does not dispute the minimum wages payable to an unskilled labourer. Accordingly, the monthly contribution of the deceased housewife to her family is taken as ₹1750/- instead of ₹1,000/- taken into account by the learned Tribunal.

7. As per the decision of this Court in **Cholamandalam M.S. General Insurance Company Limited versus Lakhmi Chand & others** FAO No.3483 of 2013 decided on 26.2.2015 neither is benefit of future prospects nor is any deduction to be made where the claimants are unable to prove that the deceased was earning and notional income is taken into account. Accordingly, in view of the decision in **Cholamandalam's** case (supra), the award is modified to the extent that compensation payable to the appellant-claimants would be without any deduction towards personal expenses of the deceased. However, the appellant-claimants would not be entitled to future prospects.

8. That as regards application of wrong multiplier, it needs mention that

the deceased was 30 years of age as per postmortem report and in

accordance with paragraph No.42 of the decision of Hon’ble the Supreme Court in **Sarla Verma versus Delhi Transport Corp. and another**, 2009 (3) RCR (Civil) 77, multiplier of 17 is applicable in case the deceased was in the age group - 26 to 30. Accordingly, as against the multiplier of 14 applied by the learned Tribunal, multiplier of 17 shall be applied while working out the compensation payable.

9. No amount was paid on account of funeral expenses, loss of estate or for that matter, loss of consortium. However, as per paragraph No.61(viii) of the decision of Hon’ble Supreme Court in **National Insurance Company Limited versus Pranay Sethi and others-2017(4) RCR (Civil) 1009**, the appellants are entitled to award of compensation of ₹15,000/- on account of funeral expenses, ₹15,000/- on account of loss of estate and ₹40,000/- on account of loss of spousal consortium. However, as per paragraph No.8.7 of the decision of Hon’ble the Supreme Court in **Magma General Insurance Co. Ltd versus Nanu Ram Alias Chuhru Ram**, 2018(4) RCR (Civil) 333, each of the two children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium. However, in view of subsequent decision of Hon’ble the Supreme Court in **Vimla Devi and others versus National Insurance Company Ltd. and others** decided on 16.11.2018 in Civil Appeal No.11042 of 2018 (arising out of SLP (C) No.17321 of 2016), award of compensation on account of loss of spousal/parental consortium is restricted to ₹1,00,000/-.

10. Learned counsel for the respondent-PRTC has fairly not opposed the claim for enhancement on the aforementioned grounds.

11. Accordingly, in the light of the position as noted above, the appellants are held entitled to the following compensation :

No.		Tribunal in ₹	in ₹
1	Monthly Income	1000/-	1750/-
2	Future prospects	Nil	Nil
3	Deduction towards personal expenses of deceased.	50%	Nil
4	Multiplier applied	14	17
5	Compensation awarded	500x12x14=84,000/-	1750x12x17=3,57,000/-
6	Loss of consortium	Nil	40,000/- to husband on account of loss of spousal consortium 40,000/- to each of the two children on account of parental consortium, total 1,20,000/-. However, in view of Vimla Devi's case (supra), the loss of spousal and parental consortium is restricted to 1,00,000/-
7	Funeral expenses	4,000/-	Rs.15,000/-
8	Loss of estate	Nil	15,000/-
9	Total	88,000/-	4,87,000/-

12. Accordingly, in the light of the position as noted above, the appellant-claimants are held entitled to award of compensation of ₹4,87,000/- as against compensation of ₹88,000/- awarded by the learned Tribunal along with interest @ 9% per annum on the enhanced amount with effect from the date of claim petition till date of payment less amount, if any, already paid.

13. Accordingly, appeal is allowed. Award dated 22.11.2001 passed by the learned Tribunal is modified to the extent as noted above.

14. Copy of this order be sent to the appellants.

February 13, 2019
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No