

FAO No.3466 of 2005

Date of Decision: 03.09.2019

Darshana Devi and others

.....Appellants

Versus

Suresh Kumar Sharma and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Raghubir Tejpal, Advocate
for the appellants.Mr. Abhimanyu Kalsy, Advocate for
Mr. Pardeep Goyal, Advocate
for respondent No.3-insurance company.**NIRMALJIT KAUR, J. (ORAL)**

The present appeal has been filed for enhancement of compensation as awarded by the Motor Accident Claims Tribunal, Kurukshetra (for short, the Tribunal), vide award dated 03.12.2004.

While praying for allowing the present appeal, learned counsel for the appellants submitted that the income of the deceased was taken as ₹2,000/- per month by the Tribunal considering him to be a labourer but while doing so only 25 days were counted, which was incorrect. Further, the multiplier of 18 should have been applied and the appellants are entitled to 40% future prospects on account of his age being 21 years. Lastly, the appellants are entitled to ₹40,000/- each under the heads of consortium as well as ₹15,000/- towards funeral expenses instead of ₹5,000/- and ₹15,000/- towards loss of estate.

Learned counsel for respondent No.3/insurance company does not dispute the enhancement towards income to the extent of 5 days, which will be ₹2400/- per month instead of ₹2000/- per month. It is also agreed

that the appellants are entitled to multiplier of 18 and also 40% future

prospects. The only dispute appears to be with respect to the compensation under the conventional heads. As per the judgment rendered by Hon'ble the Apex Court in case National Insurance Company Ltd. versus Pranay Sethi and others, (2017) 16 SCC 680, only ₹70,000/- as the maximum has been granted under the conventional heads including ₹40,000/- to the wife alone. Whereas, as per the judgment rendered by Hon'ble the Apex Court in case Magma General Insurance Co. Limited Versus Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333, the claimants are entitled to ₹40,000/- to each of the claimants towards consortium with ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate. However, nothing has been granted in the present case except ₹5,000/- towards funeral expenses. In case ₹40,000/- is granted to each of the claimants as per Magma's case (supra), the appellants would be entitled to ₹1,20,000/- and in case Pranay Sethi's case (supra) is taken into account, the appellants would be entitled to only ₹70,000/- in total. However, taking into account that only ₹5,000/- has been granted towards funeral expenses and nothing has been granted under consortium and loss of estate, this Court deems it proper to grant lump sum ₹1,00,000/- under the heads of consortium as well as funeral expenses and loss of estate.

In view of the above admitted position as well as the well settled proposition of law in the cases of Pranay Sethi's and Magma's (supra), the appellants are entitled to future prospects @ 40%, the amount of ₹1,00,000/- towards loss of consortium, loss of estate and funeral expenses.

In view of the above, the compensation is now re-assessed as per the calculation provided under:-

Sr. No.	Head	Amount assessed
1	Income	₹2400/- per month (2400 x 12 = 28800 per annum)
2	Future Prospects	40% (28800 x 40% = ₹11,520/-) 28800 + 11520 = ₹40,320/-
3	Deduction	1/2 nd 1/2 nd of 40320 = ₹20,160/- (40320 – 20160 = ₹20,160/-
4	Multiplier	18
5	Compensation	20160 x 18 = ₹3,62,880/-
6	Loss of Consortium, loss of estate and funeral expenses.	₹1,00,000/-
7	Medical Expenses	₹11,000/-
8	Total	₹4,73,880/-
9	Compensation awarded by the Tribunal	₹1,75,000/-
10	Differences	₹473880 – 175000 = ₹2,98,880/-

Thus, the enhanced compensation of ₹2,98,880/- be paid to the appellants within two months from the receipt of certified copy of this order alongwith 6% interest per annum from the date of filing of claim petition. In case the said amount is not paid within two months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of two months.

The appeal is disposed of accordingly.

(NIRMALJIT KAUR)
JUDGE

03.09.2019
sandeep

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