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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1966-2019 (O&M)
Date of decision : 23.01.2020

Pooja Sobti and others

... Appellants

Versus

Sohan Dass and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Amit Khatri, Advocate for
Mr. Ramesh Puri, Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for respondent No.3.

ALKA SARIN, J.

The present appeal has been preferred against the award dated 17.12.2018 passed by the Motor Accident Claims Tribunal, Ambala (for short 'the Tribunal'), whereby an amount of ₹15,82,000/- has been awarded as compensation along with interest @ 7.5% per annum from the date of filing of claim petition till realization.

2. Dissatisfied with the amount awarded, the claimants-appellants have preferred the present appeal for enhancement of the said amount.

3. Learned counsel for the appellants-claimants has stated that as per law laid down by the Apex Court in the case of Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, 2009(6) Supreme Court Cases 121 and National Insurance Company Ltd. vs. Pranay Sethi and others, (2017)(16) Supreme Court Cases 680, the amount of

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compensation awarded by the Tribunal is just and proper. He has further contended that as per **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others, (2018) 18 Supreme Court Cases 130,** no amount towards consortium has been awarded to the claimants.

4. Per contra, learned counsel for respondent No.3/Insurance Company has contended that there was no scope for enhancement inasmuch as the Tribunal has awarded proper compensation and in accordance with the law laid down by the Hon'ble the Supreme Court in the cases of **Sarla Verma's case** (supra) and **Pranay Sethi's case** (supra).

5. Having heard learned counsel for the parties and having gone through the record of the case with their able assistance, I am of the considered view that the contention raised by the counsel for the appellants deserves to be accepted on the ground that no compensation has been awarded to them towards consortium as per the law laid down in **Magma General Insurance Company Limited's case** (supra), wherein, their Lordships of the Supreme Court have held as follows:-

“8.7 A Constitution Bench of this Court in Pranay Sethi (supra) dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium.

In legal parlance, "consortium" is a compendious term which encompasses 'spousal consortium', 'parental consortium', and 'filial consortium'.

The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse. Rajesh and Ors. v. Rajbir Singh and Ors. (2013) 9 SCC 54.

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Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, co-operation, affection, and aid of the other in every conjugal relation."[20]

[20] BLACK'S LAW DICTIONARY (5th ed. 1979)

Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training."

Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium.

Parental Consortium is awarded to children who lose their parents in motor vehicle accidents under the Act.

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A few High Courts have awarded compensation on this count[21]. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of Filial Consortium.

[21] Rajasthan High Court in Jagmala Ram @ Jagmal Singh & Ors. v. Sohi Ram & Ors 2017 (4) RLW 3368 (Raj); Uttarakhand High Court in Smt. Rita Rana & Anr. v. Pradeep Kumar & 6 Ors. 2014 (3) UC 1687; Karnataka High Court in Lakshman and Ors. v. Susheela Chand Choudhary & Ors (1996) 3 Kant LJ 570 (DB).

The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under 'Loss of Consortium' as laid down in Pranay Sethi (supra). In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of L 40,000 each for loss of Filial Consortium .

6. Keeping in view the law laid down by the Apex Court, the appellants-claimants would, thus, be entitled to the following compensation:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹9000/-
2	Annual Income	₹9000x12 = ₹108000/-
3	Deduction 1/3 rd (₹36000/-)	₹72000/-
4	Future Prospects 40% (₹28800/-)	₹100800/- (72000+28800)
5	Multiplier '15'	₹1512000/- (100800x15)
6	Loss of Estate	₹15,000/-
7	Funeral Expenses	₹15,000/-
8	Spousal Consortium	₹40,000/-
9	Parental Consortium (1 child)	₹40,000/-

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10	Filial Consortium	₹40,000/-
10	Total Compensation	₹16,62,000/-

7. The amount of compensation awarded over and above the amount awarded by the Tribunal i.e. ₹80,000/- (₹16,62,000-1582000) shall carry interest @ 7.5% per annum from the date of filing of the claim petition till realization.

8. Accordingly, the present appeal is allowed and the award passed by the Tribunal is modified.

23.01.2020
Yogesh Sharma

(ALKA SARIN)
JUDGE

Whether speaking/reasoned Yes/ No
Whether Reportable Yes/ No