

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

**FAO-1911-1998 (O&M)
Reserved on : 18.05.2022
Date of Decision : 26.05.2022**

Lichhman Devi and Others

....Appellants

VERSUS

Sukha Singh and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ravi Sodhi, Advocate
for the appellants.

Mr. Aseem Aggarwal, Advocate
for respondent No.3.

ALKA SARIN, J.

The present appeal has been filed by the claimants against the award dated 02.05.1998 passed by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as the 'Tribunal') granting compensation of Rs.2,40,000/- on account of death of Atma Ram along with interest @ 12% per annum from the date of filing of the petition till realization.

The claimants herein i.e. widow, son and daughter of the deceased, Atma Ram, filed the claim petition for grant of compensation on account of death of Atma Ram in a motor vehicle accident caused by respondent No.1 while driving scooter bearing registration No.HR-24C-4117 in a rash and negligent manner.

Brief facts as stated in the claim petition are that on 21.01.1996 at about 4.30 p.m., Atma Ram along with his son Prem Kumar and others were standing near Home Guard Office, Begu Road, Sirsa and were

negotiating about the domestic affairs. In the meantime, respondent No.1 while driving scooter No.HR-24C-4117 along with two pillion riders in a rash and negligent manner, appeared at the scene of occurrence and struck Atma Ram who was standing on the *kacha* path by the side of the road. As a result of the accident, Atma Ram fell down and sustained multiple grievous injuries. Subsequently, he succumbed to the said injuries. The claim petition was filed by the claimants stating therein that the deceased was a Class-IV employee in the Public Health Department, Haryana and was posted as Pump Driver/Pump Operator in the Public Health Division No.1 Sirsa and was getting Rs.3,000/- per month as salary. Respondent No.1 appeared and filed written statement by raising preliminary objections regarding cause of action, locus standi. On merit, he pleaded the liability of the insurance company if any arises and denied the accident. Respondent No.2 also filed his separate written statement denying all the allegations of the petition in toto. Respondent No.3-insurance company appeared and filed its separate written statement pleading the collusion of respondent Nos.1 and 2 with the claimants. It also denied the alleged accident caused by respondent No.1 while driving the scooter. Replication was filed by the claimants to the written statement of respondent No.1.

On the basis of the pleadings of the parties and evidence produced, the following compensation was awarded by the Tribunal :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	3184/-
2	Monthly income after 1/3 rd deduction towards personal expenses	2000/- (3184-1184)

3	Annual income of the deceased	24000/- (2000x12)
4	Multiplier 10	240000/- (24000x12)
5	Grand Total	240000/-

The Tribunal awarded interest @ 12% per annum from the date of filing of the claim petition till the date of actual payment.

Learned counsel for the claimant-appellants has contended that no future prospects have been granted in the present case and even the multiplier has wrongly been applied as ‘10’ and the same ought to be ‘13’. Learned counsel for the claimant-appellants has further contended that no amount has been awarded under the conventional heads.

Per contra, learned counsel for the insurance company-respondent No.3 has contended that the compensation awarded by the Tribunal is sufficient and there is no scope for further enhancement.

Heard.

A perusal of the award reveals that no amount has been awarded on account of conventional heads and loss of consortium. The Tribunal instead of applying a deduction of 1/4th, has applied a deduction of 1/3rd towards personal expenses. In view of the law laid down by the Supreme Court in the cases of **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [2018(18) SCC 130]; National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017)16 Supreme Court Cases 680]; Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009)6 SCC 121] and N. Jayasree & Ors. vs. Cholamandalam MS General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**, the age of the deceased was 46 years in the present case and,

hence, a multiplier of ‘13’ would be applicable. The claimant-appellants would also be entitled to 30% addition towards future prospects as also 10% increase under the conventional heads and loss of consortium.

In view of the above, the compensation is worked out as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income of the deceased	3184/-
2	Annual income of the deceased	38208/- (3184x12)
3	Annual income after ¼ deduction towards personal expenses	28656/- (38208-9552)
4	Addition of 30% of Rs.28656/- on account of future prospects	8597/-
5	Total income of the deceased	37253/- (28656+8597)
6	Multiplier	13
7	Amount of compensation	484289/- (37253x13)
8	Loss of estate	16500/-
9	Funeral expenses	16500/-
10	Loss of consortium Spousal : Rs.44000/- Parental : Rs.132000/- (44000x3)	176000/-
11	Grand Total	693289/-

The amount in excess over what has already been awarded by the Tribunal shall also attract interest @ 12% per annum from the date of the award till the realization of the entire amount. The claimant-appellants shall be entitled to receive the compensation as per the shares determined by the Tribunal viz. 60% to the widow and the remaining 40% to the 3 children in equal shares. Since all the claimant-appellants are major and the appeal has been pending since 1998, the compensation (as assessed by the Tribunal and enhanced by this Court) be released to the claimant-appellants without any portion being kept in a bank any further.

In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

26.05.2022
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO